

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "**Applicants**")

AFFIDAVIT OF TASHINA ASHMEADE

I, Tashina Ashmeade, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am an associate at the law firm of Cassels Brock & Blackwell LLP, lawyers for the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**") in the above-named proceedings. As such, I have knowledge of the matters to which I depose except where stated to be on information and belief, and where so stated, I verily believe it to be true.
2. On September 19, 2019, the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) granted an order (the "**Meetings Order**"), which attached as Schedule "A" the Plan of Compromise and Arrangement (the "**Plan**") dated September 17, 2019.
3. Capitalized Terms not defined in this Affidavit have the meanings ascribed to such terms in the Meetings Order or the Plan.
4. On October 16, 2019, in accordance with the Meetings Order, the Plan was amended in the form attached hereto as **Exhibit "A"**.

5. A blackline of the Plan reflecting the changes made as against the version attached to the Meetings Order is attached hereto as **Exhibit "B"**.

6. The Meetings Order requires that no later than five (5) Business Days before the Creditors' Meetings or such shorter period as may be agreed by the Monitor and the Supporting Term Loan Lenders, the Payless Canada Entities shall serve a supplement to the Plan (the "**Plan Supplement**"), in form and substance acceptable to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders.

7. Attached hereto as **Exhibit "C"** is the Plan Supplement dated October 16, 2019.

8. I am advised by Adrian Frankum of Ankura Consulting Group, LLC, Chief Restructuring Organization of the Payless Canada Entities, that the Plan Supplement is acceptable to the Payless Canada Entities.

9. I am advised by Sean Zweig of Bennett Jones LLP, counsel to the Monitor, that the Plan Supplement is acceptable to the Monitor.

10. I am advised by Dylan Chochla of Fasken Martineau DuMoulin LLP, Canadian counsel to the Supporting Term Loan Lenders, that the Plan Supplement is acceptable to the Supporting Term Loan Lenders.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario on October 16,
2019



Commissioner for Taking Affidavits
(or as may be)


Belmoash Nasri

LSO # P14845



TASCHINA ASHMEADE

This is **Exhibit "A"**
to the affidavit of **Taschina Ashmeade**
sworn before me this 16th day of
October 2019


..... Belmoash Nasri
A Commissioner for Taking Affidavits
LSO # P14845

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "Applicants")

FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

concerning, affecting and involving

**PAYLESS SHOESOURCE CANADA INC., PAYLESS SHOESOURCE CANADA GP INC., and
PAYLESS SHOESOURCE CANADA LP**

October 16, 2019

FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

A. Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc., collectively the “**Applicants**” are debtor companies (as such term is defined in the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”)).

B. On February 19, 2019, the Honourable Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Initial Order in respect of the Applicants (as such Order may be amended, restated or varied from time to time, the “**Initial Order**”) pursuant to the CCAA. The protections of the Initial Order extend to Payless ShoeSource Canada LP (together with the Applicants, the “**Payless Canada Entities**”).

C. On September 19, 2019, the Court granted a Meetings Order (as such Order may be amended, restated or varied from time to time, the “**Meetings Order**”) pursuant to which, among other things, the Payless Canada Entities were authorized to file this Plan and to convene meetings of Affected Creditors to consider and vote on this Plan.

D. The Payless Canada Entities have engaged in good faith discussions with the Monitor and the Supporting Term Loan Lenders and determined that certain matters in the Plan require amendment at this time.

NOW THEREFORE the Payless Canada Entities hereby propose and present this plan of compromise and arrangement under the CCAA.

ARTICLE 1 INTERPRETATION

1.1 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) In this Plan and the Recitals, unless otherwise stated or the subject matter or context otherwise requires, all terms defined herein have their meanings ascribed thereto on Schedule “A”;
- (b) Any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means such document shall be substantially in such form or substantially on such terms and conditions;
- (c) Unless otherwise expressly provided herein, any reference in this Plan to an instrument, agreement or an Order or an existing document or exhibit filed or to be filed means such instrument, agreement, Order, document or exhibit as it may have been or may be amended, modified, or supplemented in accordance with its terms;
- (d) The division of this Plan into articles and sections is for convenience of reference only and does not affect the construction or interpretation of this Plan, nor are the

descriptive headings of articles and sections intended as complete or accurate descriptions of the content thereof;

- (e) The use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of this Plan to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) The words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) Unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (h) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- (i) Unless otherwise provided, any reference to a statute or other enactment of parliament, a legislature or other Governmental Entity includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) References to a specific Recital, Article or Section shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specific Recital, Article or Section of this Plan, whereas the terms “this Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to this Plan and not to any particular Recital, Article, Section or other portion of this Plan and include any documents supplemental hereto; and
- (k) The word “or” is not exclusive.

1.2 Governing Law

This Plan shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation or application of this Plan and all proceedings taken in connection with this Plan and its provisions shall be subject to the jurisdiction of the Court.

1.3 Currency

Unless otherwise stated, all references in this Plan to sums of money are expressed in, and all payments provided for herein shall be made in, Canadian dollars. In accordance

with paragraph 8 of the Claims Procedure Order, any Claim (other than Priority Claims) in a currency other than Canadian dollars must be converted to Canadian dollars, and any such amount shall be regarded as having been converted at the daily exchange rate quoted by the Bank of Canada for exchanging such currency to Canadian dollars as at the Filing Date, which rate for the conversion of United States currency is US\$1:CAD\$1.323 notwithstanding anything in the Claims Procedure Order.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder by a Person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

Time shall be of the essence in this Plan.

**ARTICLE 2
PURPOSE AND EFFECT OF THIS PLAN**

2.1 Purpose

The purpose of this Plan is to coordinate, on a cross-border basis with the U.S. Proceedings, a cost-effective means of making distributions to the Affected Creditors in the expectation that Persons who have an economic interest in any of the Payless Canada Entities, when considered as a whole, will derive a greater benefit from the implementation of this Plan than would result from a bankruptcy of the Payless Canada Entities.

The Term Loan Agent holds a valid and enforceable security interest in all of the assets, undertakings and properties of the Payless Canada Entities in respect of the Term Loan Claims. It is contemplated that certain amounts will be distributed from the Payless Canada Entities to, or for the ultimate benefit of, the Term Loan Lenders outside of this Plan.

2.2 Effectiveness

Subject to the satisfaction, completion or waiver (to the extent permitted pursuant to section 9.4) of the conditions precedent set out herein, this Plan will become effective in the sequence described in the Plan Supplement from and after the Effective Time and shall be binding on and enure to the benefit of the Payless Canada Entities, the Affected Creditors, the Released Parties, and all other Persons as provided for herein, or subject to, this Plan and their respective successors and assigns and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

2.3 Persons Not Affected

- (a) This Plan does not affect Unaffected Creditors to the extent of their Unaffected Claims. Nothing in this Plan shall affect the Payless Canada Entities' rights and defences, both legal and equitable, with respect to any Unaffected Claims, including, but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims, provided, however that the Payless Canada Entities hereby irrevocably (i) waive all such rights and defences with respect to the Term Loan Claims, and (ii) acknowledge that the security interests of the Term Loan Agent are valid and enforceable in accordance with their terms as against the Payless Canada Entities and their respective assets, undertakings and properties and stand as security for the Term Loan Claims. Except as otherwise provided for herein, nothing herein shall constitute a waiver of any rights of any Payless Canada Entity to dispute the quantum or validity of an Unaffected Claim. Other than with respect to Affected Claims and Released Claims this Plan does not affect or otherwise impair the Claims of any Person as against the Payless Canada Entities.

ARTICLE 3 CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes

For the purposes of considering, voting on, and receiving distributions under this Plan, the Affected Creditors shall constitute two classes: (i) the General Unsecured Creditor class; and (ii) the Landlord class.

3.2 Claims of Affected Creditors

- (a) Except as otherwise provided in the Meetings Order or this Plan, Affected Creditors shall be entitled to vote their Voting Claims or Disputed Voting Claims at the applicable Creditors' Meeting(s) in respect of this Plan and shall be entitled to receive distributions on account of their Proven Claims as provided under and pursuant to this Plan.
- (b) Holders of Intercompany Claims shall not be entitled to vote at the Creditors' Meetings

3.3 Unaffected Claims

Unaffected Claims shall not be compromised under this Plan. No Unaffected Creditor shall be:

- (a) entitled to vote or (except as otherwise expressly stated in the Meetings Order or this Plan) attend in respect of their Unaffected Claims at any Creditors' Meetings to consider and approve this Plan; or
- (b) entitled to receive any distribution or consideration under this Plan in respect of such Unaffected Claim;

provided, however, nothing in this Plan, other than provisions related to the Affected Creditor Distribution Account, shall prohibit or impair any distributions to the Term Loan Lenders or the Term Loan Agent in respect of the Term Loan Claims, whether in the CCAA Proceedings or the U.S. Proceedings or otherwise.

Notwithstanding the above, the Supporting Term Loan Lenders and the Term Loan Agent may attend at the Creditors' Meetings but shall not be entitled to vote at the Creditors' Meetings in respect of any portion of the Term Loan Claims.

3.4 Creditors' Meetings

- (a) The Creditors' Meetings shall be held in accordance with this Plan, the Meetings Order and any further Order in the CCAA Proceedings.
- (b) If this Plan is approved by the Required Majorities in each voting class, then this Plan shall be deemed to have been agreed to, accepted and approved by the Affected Creditors and shall be binding upon all Affected Creditors immediately upon the delivery of the Monitor's Certificate in accordance with section 9.6 hereof.

3.5 Procedure for Valuing Voting Claims

The procedure for valuing Voting Claims and resolving Disputed Voting Claims of Eligible Voting Creditors shall be as set forth in the Claims Procedure Order, the Meetings Order, this Plan and the CCAA. The Payless Canada Entities and the Monitor shall have the right to seek the assistance of the Court in valuing any Voting Claim in accordance with the Claims Procedure Order, the Meetings Order and this Plan, if required, and to ascertain the result of any vote on this Plan.

ARTICLE 4 TREATMENT OF CLAIMS

4.1 Treatment of General Unsecured Claims

- (a) On the Implementation Date and in accordance with this Plan, each Proven General Unsecured Claim shall be entitled to receive a distribution in an amount equal to its General Unsecured Pro Rata Share of the General Unsecured Pool from the Affected Creditor Distribution Account.
- (b) Consistent with section 6.2 of this Plan, if the Receivership Order is granted, all Employee Distributions that would otherwise be payable under this Plan will be paid to the Receiver to be dealt with in accordance with the Receivership Order.

4.2 Treatment of Landlord Claims

- (a) On the Implementation Date and in accordance with this Plan, each Proven Landlord Claim shall be entitled to receive a distribution in an amount equal to the lesser of \$3,840.00 and the amount asserted in such Landlord's Notice of

Dispute of Claim Statement or Proof of Claim, or if no Notice of Dispute of Claim Statement or Proof of Claim was filed, such Landlord's Claim Statement.

- (b) Only one distribution under section 4.2(a) hereof will be made in respect of each Lease regardless of whether one or more Person is identified as the Landlord under the Lease.

4.3 Treatment of Intercompany Claims

On the Implementation Date and in accordance with the steps and sequence as set forth in the Plan Supplement, all Intercompany Claims shall be preserved or extinguished at the election of the Payless Canada Entities, with the consent of the Supporting Term Loan Lenders.

4.4 Priority Claims

- (a) In accordance with the Sanction Order, the CCAA and with the steps and in the sequence set forth herein and the Plan Supplement, the Employee Priority Claims and the Crown Priority Claims, if any, shall be paid from the Priority Claim Reserve Account.
- (b) Subject to the Effective Time occurring: (i) all Crown Priority Claims that were outstanding as at the Filing Date shall be paid in full by the Monitor on behalf of the Payless Canada Entities, from the Priority Claim Reserve within six (6) months after the Sanction Order, as required by subsection 6(3) of the CCAA; and (ii) all Employee Priority Claims to the extent unpaid prior to the Implementation Date shall be paid by the Monitor, on behalf of the Payless Canada Entities, from the Priority Claim Reserve immediately after the Sanction Order as required by subsection 6(5) of the CCAA.

4.5 Disputed Claims

Any Affected Creditor with a Disputed Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim or a Proven Priority Claim in accordance with the Meetings Order. Distributions pursuant to and in accordance with this Plan shall be paid or distributed in respect of any Disputed Claim that is finally determined to be a Proven Claim in accordance with this Plan and the Meetings Order.

4.6 Director/Officer Claims

All Director/Officer Claims that are not (i) section 5.1(2) Director/Officer Claims, or (ii) judged by the express terms of a judgment rendered on a final determination on the merits to have resulted from criminal, fraudulent or other wilful misconduct on the part of the Director or Officer, shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Implementation Date.

4.7 Extinguishment of Claims

On the Implementation Date, in accordance with its terms and in the sequence set forth in the Plan Supplement (as applicable) and in accordance with the provisions of the Sanction Order, the treatment of Affected Claims (including Proven Claims, Intercompany Claims, Disputed Claims) and all Released Claims, in each case as set forth herein, shall be final and binding on the Payless Canada Entities, all Affected Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and any Person holding a Released Claim. All Affected Claims and all Released Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Claims and the Released Claims, as applicable; provided that nothing herein releases any of the Payless Canada Entities or any other Person from their obligations to make distributions in the manner and to the extent provided for in this Plan and provided further that such discharge and release of the Payless Canada Entities shall be without prejudice to the right of an Affected Creditor in respect of a Disputed General Unsecured Claim or Disputed Landlord Claim to prove such Disputed General Unsecured Claim or Disputed Landlord Claim in accordance with the Claims Procedure Order or the Meetings Order so that such Disputed General Unsecured Claim or Disputed Landlord Claim may become a Proven Claim entitled to receive consideration under this Plan.

For certainty, all Affected Claims and Released Claims of Creditors who are or were employees of any of the Payless Canada Entities shall be fully, finally and irrevocably released, discharged, cancelled and barred pursuant to the terms hereof and the Sanction Order, except (notwithstanding anything contained in this section 4.7 or Article 8 hereof), if the Receivership Order has been granted, for the sole purpose of permitting, and only to the extent required to permit, individuals who are entitled to receive payment under WEPPA to make application for payment in respect of eligible wages (as defined in WEPPA) under and in accordance with WEPPA. No such individual or any person acting as assignee or subrogee (including the Crown) of or in respect of such claims shall have or be entitled to assert any claim against the Payless Canada Entities, their assets, directors or officers (other than as provided in Article 4 hereof and the Receivership Order) or against any other Released Party.

ARTICLE 5 CREATION OF POOL AND RESERVES

5.1 Creation of the General Unsecured Pool

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the General Unsecured Pool.

- (b) The Monitor shall hold the General Unsecured Pool in the Affected Creditor Distribution Account and shall distribute such Cash in the General Unsecured Pool to General Unsecured Creditors holding Proven General Unsecured Claims in accordance with Article 6 hereof.

5.2 Creation of the Landlord Pool

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Landlord Pool.
- (b) The Monitor shall hold the Landlord Pool in the Affected Creditor Distribution Account and shall distribute such Cash in the Landlord Pool to Proven Landlord Creditors holding Proven Landlord Claims in accordance with Article 6 hereof.

5.3 Creation of the Administrative Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Administrative Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Administrative Reserve in the Administrative Reserve Account for the purpose of paying the Administrative Reserve Costs in accordance with this Plan and shall distribute any remaining balance in the Administrative Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.4 Creation of the Priority Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Priority Claim Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Priority Claim Reserve in the Priority Claim Reserve Account for the purpose of paying the Priority Claims in accordance with this Plan and shall distribute any remaining balance in the Priority Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.5 Creation of the Directors' Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Directors' Claim Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Directors' Claim Reserve in the Directors' Claim Reserve Account for the purpose of paying the Director/Officer Claims in accordance with this Plan and shall distribute any remaining balance in the Directors' Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.6 Creation of the Post-Filing Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Post-Filing Claim Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Post-Filing Claim Reserve in the Post-Filing Claim Reserve Account for the purpose of paying the Post-Filing Claims in accordance with this Plan and shall distribute any remaining balance in the Post-Filing Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.7 Excess Reserve Funds

- (a) To the extent that the Payless Canada Entities or the Monitor determine, with the consent of the other party, that there are funds in any Reserve sufficiently in excess of the amount required to fund payments that may be required to be made from such Reserve, the Payless Canada Entities with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, may transfer such excess funds to another Reserve. In the event of any dispute the parties may seek a further order of the Court.
- (b) To the extent that the Payless Canada Entities or the Monitor determine, with the consent of the other party, that there are insufficient funds in any Reserve to fund payments that may be required to be made from such Reserve, no excess amounts from any other Reserves will be distributed to the Payless Canada Entities without ensuring that sufficient funds are added to the applicable Reserve. In the event of any dispute the parties may seek a further order of the Court.

- (c) For the avoidance of doubt, no amounts held in any of the Reserves will be, or be deemed to be held in trust for any Claimant.

ARTICLE 6
PROVISIONS REGARDING DISTRIBUTIONS AND DISBURSEMENTS

6.1 Distributions and Disbursements Generally

- (a) All distributions and disbursements to be effected pursuant to this Plan shall be made pursuant to this Article 6 and shall occur in the manner set out below under the supervision of the Monitor.
- (b) Notwithstanding any other provisions of this Plan, no distributions or transfers of Cash shall be made by the Monitor with respect to all or any portion of a Disputed Claim unless and only to the extent that such Disputed Claim has become a Proven Claim or a Proven Priority Claim, as applicable.
- (c) Notwithstanding anything to the contrary herein, all distributions or other payments to be made pursuant to this Plan to General Unsecured Creditors or Landlords are conditional on the receipt of documentation in form and content satisfactory to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders (the “**Comfort Letter**”) from the applicable Governmental Entity authorizing the Monitor to make the distributions, disbursements, or payments without any liability to any of the Payless Canada Entities, the Monitor, or each of their respective Directors, Officers, employees or agents in respect of the ITA, *Excise Tax Act*, and any other legislation pertaining to Taxes. In the event the Comfort Letter is not received by December 31, 2019, the Payless Canada Entities shall notify the Term Loan Agent and the Supporting Term Loan Lenders and may seek further directions from the Court on at least five (5) Business Days’ notice to the Service List.

6.2 Distributions of Cash After Disputed General Unsecured Claims and Disputed Landlord Claims are Resolved

- (a) From and after the date of the resolution of all Disputed General Unsecured Claims and all Disputed Landlord Claims in accordance with the Claims Procedure Order and the Meetings Order (the “**Affected Creditor Distribution Date**”), the Monitor shall, subject to section 6.1, distribute to such Affected Creditor, Cash in accordance with Article 4 herein, less any Withholding Obligations or statutory deductions required by Applicable Law. For the avoidance of doubt, the Monitor shall have no obligation to make distributions to Affected Creditors prior to the Affected Creditor Distribution Date.
- (b) If the Receivership Order has been granted, on the Affected Creditor Distribution Date, all Creditors who are or were employees of the Payless Canada Entities and, to the best of the Monitor’s knowledge, not ineligible under section 6 of WEPPA to receive a payment under WEPPA, shall be deemed to have directed that their Employee Distributions be made to the Receiver, and the Receiver

shall receive and deal with the Employee Distributions subject to and in accordance with the terms of the Receivership Order. For the avoidance of doubt, if the Receivership Order is granted no Employee Distributions shall be paid directly to employees by the Monitor or the Payless Canada Entities, however if the Receivership Order is not granted, such Employee Distributions will be made in the same manner as distributions to other General Unsecured Creditors.

6.3 Method of Payment

All distributions in Cash to Affected Creditors to be made by the Monitor under this Plan shall be made from the Affected Creditor Distribution Account by cheque sent by prepaid ordinary mail to the address for such Affected Creditor as recorded in the books and records of the Payless Canada Entities, as noted on the Notice of Dispute of Claim Statement or Proof of Claim filed by the Affected Creditors or as otherwise communicated to the Monitor not more than three (3) Business Days following the granting of the Sanction Order by such Affected Creditor, or an assignee in respect of such Affected Creditor's Proven Claim; provided if the Receivership Order is granted, the Employee Distributions shall be made by transfer from the Affected Creditor Distribution Account to an account established and designated by the Receiver.

6.4 Undeliverable Distributions

- (a) If any distribution is returned as undeliverable or is not cashed (in each case, an "**Undeliverable Distribution**"), no further distributions to such Affected Creditor shall be made unless and until the Monitor is notified by such Affected Creditor of its current address at which time all such distributions shall be made to such Affected Creditor without interest.
- (b) All claims for undeliverable or un-cashed distributions in respect of Proven Claims shall be made on or before the date that is six (6) months after the Affected Creditor Distribution Date, after which date the Proven Claims of such Affected Creditor or successor or assign of such Affected Creditor with respect to such unclaimed or un-cashed distributions shall be forever discharged and forever barred, without any compensation therefor, notwithstanding any Applicable Law to the contrary, at which time any Cash held by the Monitor in relation to such undeliverable or unclaimed distribution shall be added to the Administrative Reserve. Nothing in this Plan or Sanction Order shall require the Monitor or the Payless Canada Entities to attempt to locate the holder of any Proven Claim or Unaffected Claim.

6.5 Tax Matters

- (a) Any terms and conditions of any Affected Claims which purport to deal with the order of or grant of priority of payment of principal, interest, penalties or other amounts shall be deemed to be void and ineffective. All distributions made

pursuant to this Plan shall be first in satisfaction of the portion of Affected Claims that are not subject to any Withholding Obligation.

- (b) Notwithstanding any provisions of this Plan, each Person that receives a distribution, disbursement or other payment pursuant to this Plan shall have sole and exclusive responsibility and liability for the satisfaction and payment of any Tax obligations imposed on such Person by any Taxing Authority on account of such distribution, disbursement or payment.
- (c) Any payor shall be entitled to deduct and withhold and remit from any distribution, payment or consideration otherwise payable to any Person pursuant to this Plan such amounts as are required, or are reasonably expected to be required, (a "**Withholding Obligation**") to be deducted and withheld with respect to such payment under the ITA, or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of a Person until such Person has delivered to the Payless Canada Entities and the Monitor such documentation prescribed by Applicable Law or otherwise reasonably required by the Monitor as will enable the Monitor to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Taxing Authority.
- (d) All distributions made pursuant to this Plan shall be made as a payment of principal of the relevant Claim before any interest is paid on such Claim.
- (e) To the extent that amounts are withheld or deducted and paid over to the applicable Taxing Authority, such withheld or deducted amounts shall be treated for all purposes of this Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made.

ARTICLE 7 IMPLEMENTATION

7.1 Authorizations

The adoption, execution, delivery, implementation and consummation of all matters contemplated under this Plan involving corporate or partnership action of the Payless Canada Entities will occur and be effective as of the Implementation Date, and will be authorized and approved under this Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, general partners, limited partners, directors or officers of any of the Payless Canada Entities. All necessary approvals to take actions shall be deemed to have been obtained from the Directors or the shareholders, general partners or limited partners of the Payless Canada Entities, as applicable, including the deemed passing by any class of shareholders, general partners or limited partners of any resolution or special resolution and no agreement between a shareholder, general partner or limited partner and another Person limiting in any way the right to vote shares or partnership interests held by such shareholder, general partner or limited partner with respect to any of the steps contemplated by this Plan shall be deemed to be effective and any such agreement shall have no force and effect.

7.2 Implementation Date Transactions

The Payless Canada Entities and the Monitor, as applicable, will take the steps set forth in the Plan Supplement (collectively, the “**Implementation Date Transactions**”), which shall be consummated and become effective in the order set out therein, and will take any additional actions as may be necessary to effect a restructuring of the Payless Canada Entities’ businesses or overall organizational structure to reflect and implement the provisions of this Plan in a tax efficient and orderly manner.

7.3 Post-Implementation Date Transactions

- (a) The Monitor, with the consent of the Payless Canada Entities and/or the Chief Restructuring Organization or upon further Court Order, on behalf of the Payless Canada Entities, shall pay (i) the Priority Claims pursuant to and in accordance with section 4.4 from the Priority Claim Reserve Account; (ii) any Administrative Reserve Costs from the Administrative Reserve Account; (iii) the Director/Officer Claims from the Directors’ Claim Reserve Account; (iv) any Post-Filing Claims from the Post-Filing Reserve Account; (v) distributions from the Landlord Pool in accordance with Article 6 hereof; and (vi) distributions from the General Unsecured Pool in accordance with Article 6 hereof, *provided, however*, that with respect to (iii) and (iv) above, such payments shall only be made after five (5) Business Days notice to the Term Loan Agent and the Supporting Term Loan Lenders and in the event of an objection in such period that cannot be resolved consensually, with an order of the Court.

- (b) The Monitor, with the consent of the Payless Canada Entities and/or the Chief Restructuring Organization and the Supporting Term Loan Lenders, or upon further Court Order on at least five (5) Business Days notice to the Service List, on behalf of the Payless Canada Entities, may transfer any unused portion of the Reserves to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.
- (c) Cassels shall continue to have primary carriage of, but shall work in consultation with the Monitor in respect of, the resolution of Claims including Claims to be paid from the Reserves and all negotiations with respect to the Comfort Letter after the Implementation Date.

ARTICLE 8 RELEASES

8.1 Plan Releases

At the Effective Time, for good and valuable consideration, including the distributions to be made pursuant to this Plan, and, if the Receivership Order is granted, the transfer to the Receiver of the Employee Distributions to be dealt with in accordance with the Receivership Order, every Creditor, Affected Creditor or other Person, on the Creditor's, Affected Creditor's or other Person's own behalf and on behalf of the Creditor's, Affected Creditor's or other Person's respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, hereby is deemed to and does fully, finally, irrevocably and unconditionally release and forever discharge each of the Payless Canada Entities, the Directors, the Officers and any alleged fiduciary (whether acting as a director, officer, or other responsible party), Cassels, Akin, S&K, FTI, the Monitor, the Chief Restructuring Organization, the Term Loan Agent, and each of the Term Loan Lenders (including each of the Supporting Term Loan Lenders) together with each of their respective current and former legal counsel, financial advisors, representatives, directors, officers, predecessors, affiliates, member companies, related companies, partners, shareholders, administrators, executors, employees, professional advisors (collectively, the "**Released Parties**" and individually, a "**Released Party**"), of and from any and all Claims, and, without limitation, any and all past, present and future claims, causes of action, debts, rights, interests, actions, rights of indemnity, liabilities, demands, duties, injuries, accounts, covenants, damages, expenses, fees (including solicitors' fees or liens), costs, compensation, or causes of action of whatsoever kind or nature whether foreseen or unforeseen, known or unknown, matured or unmatured, direct, indirect or derivative, asserted or unasserted, contingent or actual, liquidated or unliquidated, whether in tort or contract, whether statutory, at common law or in equity, based on, in connection with, arising out of, or in any way related to, in whole or in part, directly or indirectly, any act, inaction or omission, transaction, distribution, payment, dealing or other occurrence relating to or otherwise in connection with (a) the business and operations of the Payless Canada Entities existing or taking place on or prior to the Effective Time, (b) the property and assets of the

Payless Canada Entities existing or taking place on or prior to the Effective Time, (c) the Affected Claims, this Plan, the U.S. Proceedings or the CCAA Proceedings; (d) any contract that has been restructured, terminated, repudiated, disclaimed or resiliated in accordance with the CCAA, (e) the Implementation Date Transactions in respect of which the Released Parties had any role, whether in their capacity as Officers, Directors or in any other capacity, (f) liabilities of the Directors and Officers and any alleged fiduciary or other duty, including any and all Claims that may be made against the Directors or Officers where by law such Directors or Officers may be liable in their capacity as Directors or Officers, or (g) any Claim that has been barred or extinguished by the Claims Procedure Order (all collectively, the “**Released Claims**”); and at the Effective Time the Payless Canada Entities are deemed to and do fully, finally, irrevocably and unconditionally release and forever discharge every other Released Party of and from any and all Released Claims.

Notwithstanding the foregoing, nothing in this section 8.1 shall release or discharge:

- (a) the Payless Canada Entities and their respective assets, undertakings and properties from any Unaffected Claim that has not been paid in full under this Plan or the Plan Supplement to the extent of such non-payment;
- (b) a Released Party from its obligations under this Plan or the Plan Supplement;
- (c) a Released Party found by a court of competent jurisdiction by final determination on the merits to have committed fraud or wilful misconduct in relation to a Released Claim for which it is responsible at law; or
- (d) the Directors from any Claims which have been preserved in accordance with the Claims Procedure Order that cannot be compromised due to the provisions of section 5.1(2) of the CCAA.

8.2 Injunction

Subject to the exceptions stated in sub-paragraphs (a) through (d) of section 8.1 of this Plan, all Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to the Affected Claims and the Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any of the Released Parties or their property;

- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit or demand (including by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation) or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim in any manner or forum, against one or more of the Released Parties;
- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any action to interfere with the implementation or consummation of this Plan (including the Implementation Date Transactions);

and any such proceedings will be deemed to have no further effect against the Payless Canada Entities or any of their assets and will be released, discharged or vacated without cost to the Payless Canada Entities. All Persons shall cooperate with the Payless Canada Entities and the Monitor in lifting any lien or discontinuing any proceeding filed or commenced prior to the Effective Time, as the Payless Canada Entities or the Monitor may reasonably request. The Payless Canada Entities may apply to the Court to obtain a discharge or dismissal of any such proceedings if necessary without notice to any Person.

8.3 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article 8 shall become effective on the Implementation Date.

8.4 Knowledge of Claims

Each Person to which section 8.1 hereof applies shall be deemed to have granted the releases set forth in section 8.1 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 9
COURT SANCTION, CONDITIONS PRECEDENT AND IMPLEMENTATION

9.1 Application for Sanction Order

If this Plan is approved by the Required Majorities, the Payless Canada Entities shall apply for the Sanction Order on the date set out in the Meetings Order or such later date as the Court may set and, shall provide the Supporting Term Loan Lenders with drafts of the court materials at least three (3) Business Days prior to the date the Payless Canada Entities serve the materials upon the service list (or as soon as possible where it is not reasonably practicable to provide drafts three (3) Business Days in advance). At such hearing, the Monitor will also request the Court grant the Receivership Order.

9.2 Sanction Order

The Sanction Order shall be substantially in the form attached (without this Plan included as a schedule) as Schedule "B" hereto, with such amendments as the Payless Canada Entities, the Supporting Term Loan Lenders, and the Monitor may agree.

9.3 Conditions to the Implementation Date

The implementation of this Plan shall be conditional upon the fulfillment, satisfaction or waiver (to the extent permitted by section 9.4 hereof) of the following conditions:

- (a) this Plan shall have been approved by the Required Majorities;
- (b) the Court shall have granted the Sanction Order the operation and effect of which shall not have been stayed, reversed or amended and in the event of an appeal or application for leave to appeal, final determination shall have been made by the appellate court;
- (c) the Payless Canada Entities shall have funded:
 - (i) the Administrative Reserve;
 - (ii) the Priority Claim Reserve;
 - (iii) the Directors' Claim Reserve;
 - (iv) the Post-Filing Claim Reserve;
 - (v) the General Unsecured Pool, to be held in the Affected Creditor Distribution Account; and
 - (vi) the Landlord Pool, to be held in the Affected Creditor Distribution Account;
- (d) the U.S. Proceedings with respect to the Payless Canada Entities shall have been dismissed;
- (e) the U.S. Plan shall have become effective;

- (f) the Monitor shall have received written confirmation from Supporting Term Loan Lenders that the Supporting Term Loan Lenders are satisfied with (i) the treatment of the Post-Filing Intercompany Loans, (ii) the form and substance of the Plan Supplement, and (iii) all variations and modifications of, and amendments and supplements to the Plan, the Plan Supplement and the Sanction Order, to and including the Implementation Date;
- (g) the Implementation Date shall have occurred no later than the Outside Date.

9.4 Waiver of Conditions

The Payless Canada Entities, with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, may at any time and from time to time waive the fulfillment or satisfaction, in whole or in part, of the conditions set out herein, to the extent and on such terms as such parties may agree. Notwithstanding anything to the contrary in this Plan or in any order of the Court, the Payless Canada Entities may not waive satisfaction of the conditions set out in subsection 9.3(f) hereof, which condition is for the exclusive benefit of, and may only be waived by, the Supporting Term Loan Lenders. Notwithstanding anything to the contrary in this Plan or in any order of the Court, the Payless Canada Entities may not waive satisfaction of the conditions set out in subsection 9.3(e) without the consent of the Supporting Term Loan Lenders.

9.5 Implementation Provisions

If the conditions contained in section 9.3 are not satisfied or waived (to the extent permitted under section 9.4) by the Outside Date, unless the Payless Canada Entities, in consultation with the Monitor and in consultation with the Supporting Term Loan Lenders, agree in writing to extend such period, this Plan and the Sanction Order shall cease to have any further force or effect and will not be binding on any Person.

9.6 Monitor's Certificate of Plan Implementation

Upon written notice from the Payless Canada Entities (or counsel on their behalf) to the Monitor, the Term Loan Agent and the Supporting Term Loan Lenders that the conditions to Plan implementation set out in section 9.3, have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, and file with the Court, a certificate (the "**Monitor's Certificate**") which states that all conditions precedent set out in section 9.3 have been satisfied or waived and that the Implementation Date (which shall be set out on the certificate) has occurred.

ARTICLE 10 GENERAL

10.1 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

10.2 Preferential Transactions

Sections 95 to 101 of the BIA and any applicable law relating to preferences, settlements, fraudulent conveyances or transfers at undervalue shall not apply in any respect, including, without limitation, to any dealings prior to the Filing Date, to this Plan, to any payments or distributions made in connection with the restructuring and recapitalization of the Payless Canada Entities, whether made before or after the Filing Date, or to any and all transactions contemplated by and to be implemented pursuant to this Plan.

10.3 Claims Bar Date

Nothing in this Plan extends or shall be interpreted as extending or amending the Claims Bar Date, or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order.

10.4 Non-Consummation

If the Implementation Date does not occur on or before the Outside Date (as the same may be extended in accordance with the terms hereof), or if this Plan is otherwise withdrawn in accordance with its terms: (a) this Plan shall be null and void in all respects, and (b) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Payless Canada Entities, their respective successors or any other Person; (ii) prejudice in any manner the rights of the Payless Canada Entities, their respective successors or any other Person in any further proceedings involving the Payless Canada Entities or their respective successors; or (iii) constitute an admission of any sort by the Payless Canada Entities, their respective successors or any other Person.

10.5 Modification of Plan

- (a) The Payless Canada Entities may propose a variation or modification of, or amendment or supplement to this Plan at or prior to the Creditors' Meetings, in consultation with the Monitor, provided that notice of such variation, modification, amendment or supplement is given to all Creditors entitled to vote and present in person at the applicable Creditors' Meetings prior to the vote being taken. Any variation, amendment, modification or supplement at a Creditors' Meetings shall be posted promptly on the Monitor's Website, served by email to the Service List and filed with the Court as soon as practicable following the applicable Creditors' Meetings and in any event prior to the Court hearing the Sanction Motion.
- (b) After the Creditors' Meetings (and both prior to and subsequent to the obtaining of any Sanction Order), the Payless Canada Entities may at any time and from time to time, amend, restate, vary, modify or supplement this Plan: (a) pursuant to an Order of the Court, or (b) without further Court Order, where such amendment to this Plan concerns a matter which, in the opinion of the Payless Canada Entities and the Monitor, is of an administrative nature required to better give effect to the implementation of this Plan or the Sanction Order or to cure any

errors, omissions or ambiguities, and in either circumstance is not materially adverse to the financial or economic interests of the Affected Creditors. The Monitor shall forthwith post on the Monitor's Website any such amendment to this Plan, with notice of such posting forthwith provided to the Service List.

10.6 Severability of Plan Provisions

If, prior to the Effective Time, any term or provision of this Plan is held by the Court to be invalid, void or unenforceable, at the request of the Payless Canada Entities with the consent of the Supporting Term Loan Lenders, the Court shall have the power to either (a) sever such term or provision from the balance of this Plan and provide the Payless Canada Entities with the option to proceed with the implementation of the balance of this Plan as of and with effect from the Effective Time, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that this Plan is implemented, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

10.7 Preservation of Rights of Action

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with this Plan, following the Implementation Date, the Payless Canada Entities will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Payless Canada Entities may hold against any Person or entity without further approval of the Court.

10.8 Responsibilities of Monitor

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Payless Canada Entities and not in its personal or corporate capacity, and shall have no liability in connection with the implementation of this Plan, including without limitation with respect to making distributions pursuant to and in accordance with this Plan, the establishment and administration of the General Unsecured Pool, the Landlord Pool, the Affected Creditor Distribution Account, the Administrative Reserve, the Priority Claim Reserve, the Directors' Claim Reserve and the Post-Filing Claim Reserve, (and in each case, any adjustments with respect to same) or the timing or sequence of this Plan's transaction steps, in each case save and except for gross negligence and wilful misconduct. FTI will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Payless Canada Entities to observe, perform or comply with any of its obligations under this Plan. The Monitor shall not be responsible or liable whatsoever for any obligations of the Payless Canada Entities. The Monitor shall at all times have the

powers and protections granted to it by this Plan, the CCAA, the Initial Order, the Meetings Order, and any other Order made in the CCAA Proceedings.

10.9 Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by a Person in writing or unless its Claims overlap or are otherwise duplicative.

10.10 Notices

Any notice or other communication to be delivered hereunder must be in writing and refer to this Plan and may, as hereinafter provided, be made or given by personal delivery, ordinary mail, email or by facsimile addressed to each of the respective parties as follows:

- (a) The Payless Canada Entities:

c/o Ankura Consulting Group, LLC
485 Lexington Avenue, 10th Floor
New York, NY United States 10017

Attention: Adrian Frankum
Email: adrian.frankum@ankura.com

with a required copy (which shall not be deemed notice) to:

Cassels Brock & Blackwell LLP
40 King Street West
2100 Scotia Plaza
Toronto, Ontario M5H 3C2

Attention: Ryan Jacobs and Jane O. Dietrich
Email: rjacobs@casselsbrock.com
jdietrich@casselsbrock.com

- (b) The Monitor:

FTI Consulting Canada Inc.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Greg Watson, Paul Bishop and Jim Robinson
Email: paylesscanada@fticonsulting.com

And to:

Bennett Jones LLP
100 King Street West, Suite 3400
Toronto, ON M5X 1A4

Attention: Sean Zweig and Michael S. Shakra
Email: zweigs@bennettjones.com
shakram@bennettjones.com

(c) The Supporting Term Loan Lenders:

c/o Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
P.O. Box 20
Toronto, Ontario M5H 2T6
Attention: Stuart Brotman and Dylan Chochla
Email: sbrotman@fasken.com
dchochla@fasken.com

(d) The Term Loan Agent

c/o McCarthy Tetrault LLP
Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto, Ontario M5K 1E6
Attention: Trevor Courtis
Emails: tcourtis@mccarthy.ca

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. (Toronto time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

10.11 Reliance on Consent

For the purposes of this Plan, where a matter (i) shall have been agreed, waived, consented to or approved by the Supporting Term Loan Lenders, (ii) requires consultation with or notice to the Supporting Term Loan Lenders, or (iii) must be satisfactory or acceptable to the Supporting Term Loan Lenders, any Person shall be

entitled to rely on written confirmation from Fasken, as counsel to the Supporting Term Loan Lenders, that the Supporting Term Loan Lenders have agreed, waived, consented to or approved a particular matter or, as applicable, may consult with or provide notice to Fasken to satisfy such requirement.

10.12 Paramountcy

- (a) From and after the Effective Time, any conflict between (i) this Plan and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and the Payless Canada Entities as at the Implementation Date, will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.
- (b) From and after the granting of the Sanction Order, any conflict between (i) this Plan and (ii) the Sanction Order, will be deemed to be governed by the terms, conditions and provisions of the Sanction Order, which shall take precedence and priority.

10.13 Further Assurances

Notwithstanding that the transactions and events set out herein will occur and be deemed to occur in the order set out in this Plan without any further act or formality, each of the Persons named or referred to in, or subject to, this Plan will make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein.

Dated this 16th day of October, 2019.

SCHEDULE "A"

Definitions

"Administration Charge" has the meaning given to that term in the Initial Order;

"Administrative Reserve" means a Cash reserve in the amount set forth in the Plan Supplement, to be deposited by the Payless Canada Entities into the Administrative Reserve Account for the purpose of paying the Administrative Reserve Costs, which amounts will be subject to the Administration Charge, from and after the Implementation Date;

"Administrative Reserve Account" means a segregated interest-bearing trust account established by the Monitor to hold the Administrative Reserve;

"Administrative Reserve Costs" means costs incurred and payments to be made on or after the Implementation Date (including costs incurred prior to the Implementation Date which remain outstanding as of the Implementation Date) in respect of: (a) the Payless Canada Entities' legal fees and disbursements; (b) the Monitor's fees and disbursements (including of its legal counsel and other consultants and advisors) (in the case of (a) and (b), subject to the provisions of the Initial Order); and (c) with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, any other amounts the Payless Canada Entities may determine in respect of any other determinable contingency in connection with the Payless Canada Entities, the CCAA Proceedings or this Plan;

"Affected Claims" means all Claims against any of the Payless Canada Entities that are not Unaffected Claims;

"Affected Creditor" means the holder of an Affected Claim in respect of and to the extent of such Affected Claim;

"Affected Creditor Distribution" means Cash in the amount of \$1,183,500;

"Affected Creditor Distribution Account" means a segregated interest-bearing trust account established by the Monitor to be funded by the Payless Canada Entities in the amount of the Affected Creditor Distribution for the purpose of funding the Affected Creditor Distribution;

"Affected Creditor Distribution Date" has the meaning given to that term in section 6.2 hereof;

"Akin" means Akin Gump Strauss Hauer & Feld LLP, counsel to the U.S. Debtors and the Payless Canada Entities in the U.S. Proceedings;

"Applicable Law" means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the Law (or any part thereof) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;

"Applicants" has the meaning ascribed to that term in the Recitals;

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3;

“**Business Day**” means any day, other than a Saturday, or a Sunday or a statutory or civic holiday, on which banks are generally open for business in Toronto, Ontario;

“**Cash**” means cash, certificates of deposit, bank deposits, and other cash equivalents;

“**Cassels**” means Cassels Brock & Blackwell LLP, counsel to the Payless Canada Entities and the Chief Restructuring Organization;

“**CCAA**” has the meaning ascribed to that term in the Recitals;

“**CCAA Proceedings**” means the proceedings commenced by the Applicants under the CCAA as contemplated by the Initial Order;

“**Charges**” has the meaning ascribed to that term in the Initial Order;

“**Chief Restructuring Organization**” means Ankura Consulting Group, LLC in its capacity as Chief Restructuring Organization of the Payless Canada Entities;

“**Claim**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claim Statement**” has the meaning ascribed to that term in the Claims Procedure Order, and includes any amended Claim Statement;

“**Claimant**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claims Bar Date**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claims Procedure Order**” means the Order made in these proceedings on April 24, 2019 entitled “Claims Procedure Order”;

“**Comfort Letter**” has the meaning ascribed thereto in Article 6 hereof;

“**Court**” has the meaning ascribed to that term in the Recitals;

“**Creditor**” means any Person having a Claim and includes without limitation the transferee or assignee of a Claim transferred and recognized as a Creditor in accordance with the Claims Procedure Order or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;

“**Creditors’ Meetings**” means the meetings of the General Unsecured Creditors and of the Landlords called for the purpose of considering and voting in respect of this Plan as described in the Meetings Order;

“**Crown**” means Her Majesty in right of Canada or a province of Canada;

“**Crown Priority Claim**” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;

- (b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the Canada Pension Plan, an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of the *Employment Insurance Act* and of any related interest, penalties or other amounts;
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
 - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a "province providing a comprehensive pension plan" as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a "provincial pension plan" as defined in that subsection;

"Director" means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or de facto director of any of the Payless Canada Entities;

"Directors' Charge" has the meaning ascribed to it in the Initial Order;

"Directors' Claim Reserve" means a Cash reserve, equal to the amount of the Directors' Charge or such lesser amount as may be agreed to by the Payless Canada Entities, the beneficiaries of the Directors' Charge, the Monitor and the Supporting Term Loan Lenders, to be deposited by the Payless Canada Entities into the Directors' Claim Reserve Account for the purposes of paying any finally determined valid claims secured by the Directors' Charge;

"Directors' Claim Reserve Account" means a segregated interest-bearing trust account established by the Monitor to hold the Directors' Claim Reserve;

"Disputed Claim" any Claim that has not been finally determined in accordance with the Claims Procedure Order, the Meetings Order, this Plan or the CCAA;

"Disputed General Unsecured Claim" means a General Unsecured Claim which has not been allowed, in whole or in part, as a Proven General Unsecured Claim, which is validly disputed for distribution purposes in accordance with the Claims Procedure Order or the Meetings Order and which remains subject to adjudication for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order or this Plan;

"Disputed Landlord Claim" means a Landlord claim which has not been allowed, in whole or in part, as a Proven Landlord Claim, which is validly disputed for distribution purposes in

accordance with the Claims Procedure Order and which remains subject to adjudication for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order or this Plan;

“Disputed Voting Claim” means a disputed Landlord Claim or a Disputed General Unsecured Claim;

“Effective Time” means the time set out on Monitor’s certificate confirming the occurrence of the Implementation Date (as further described in the Sanction Order);

“Eligible Voting Creditors” means General Unsecured Creditors and Landlords, holding Voting Claims or Disputed Voting Claims;

“Employee Distribution” means any distribution under this Plan to an employee or former employee of any of the Payless Canada Entities who is, to the best of the Monitor’s knowledge, not ineligible under section 6 of WEPPA to receive a payment under WEPPA, in his or her capacity as an employee or former employee, on account of such employee or former employee’s General Unsecured Claim;

“Employee Priority Claims” means, with respect to Creditors who are or were employees of any of the Payless Canada Entities, the following claims:

- (a) Claims of the Payless Canada Entities’ employees and former employees equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(l)(d) of the *Bankruptcy and Insolvency Act* (Canada) if the Payless Canada Entities had become bankrupt on the Filing Date; and
- (b) Claims of the Payless Canada Entities’ employees and former employees for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the date of the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Payless Canada Entities’ business during the same period.

“Equity Claim” has the meaning set forth in section 2(1) of the CCAA;

“Excise Tax Act” means the *Excise Tax Act*, R.S.C. 1985, c.E-15, as amended and any regulations thereunder;

“Fasken” Fasken Martineau DuMoulin LLP, counsel to the Supporting Term Loan Lenders;

“Filing Date” means February 19, 2019;

“FTI” means FTI Consulting Canada Inc. and its affiliates;

“General Unsecured Claim” means any Affected Claim other than a Landlord Claim or an Intercompany Claim;

“General Unsecured Creditor” means the holder of a General Unsecured Claim in respect of and to the extent of such General Unsecured Claim;

“General Unsecured Pool” means Cash in the amount of the Affected Creditor Distribution minus the amount required to fund the Landlord Pool;

“General Unsecured Pro Rata Share” means the proportionate share of a Proven General Unsecured Claim to the total of all Proven General Unsecured Claims after final determination of all Disputed General Unsecured Claims in accordance with the Claims Procedure Order, the Meetings Order and this Plan;

“General Unsecured Required Majority” means a majority in number of General Unsecured Creditors representing at least two thirds in value of the Voting Claims of General Unsecured Creditors who actually vote (in person or by proxy) at the Creditors’ Meeting;

“Governmental Entity” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

“Implementation Date” means the Business Day on which this Plan becomes effective, which shall be the day indicated on the certificate which the Monitor has filed with the Court contemplated in section 9.6 hereof;

“Implementation Date Transactions” has the meaning ascribed to that term in section 7.2;

“Initial Order” has the meaning ascribed to that term in the Recitals;

“Intercompany Claim” means any Claim held by a Payless Canada Entity against another Payless Canada Entity or an affiliate of a Payless Canada Entity (including, for the avoidance of doubt, a U.S. Debtor) or any Claim held by an affiliate of a Payless Canada Entity (including, for the avoidance of doubt, a U.S. Debtor) against a Payless Canada Entity, provided however, that the Post-Filing Intercompany Loans shall not be an Intercompany Claim;

“ITA” means the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended and any regulations thereunder;

“Landlord” means any Person(s) in its/their capacity as lessor was a party under a Lease;

“Landlord Claim” means a Claim of a Landlord;

“Landlord Claim Statement” has the meaning ascribed to that term in the Claims Procedure Order;

“Landlord Pool” means Cash in the amount required to pay the distributions provided for in section 4.2, provided, however, that for the purposes of funding the Landlord Pool, if the Payless

Canada Entities have disputed any Landlord Claim, \$3,840.00 shall be reserved for such claim, and for greater clarity, if any portion of the Landlord Pool is not required to pay Proven Landlord Claims, such amounts shall be included in the General Unsecured Pool;

“Landlord Required Majority” means a majority in number of Landlord representing at least two thirds in value of the Voting Claims of Landlords who actually vote (in person or by proxy) at the Creditors’ Meeting;

“Law” means any law, statute, order, decree, consent decree, judgment, rule regulation, ordinance or other pronouncement having the effect of law whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;

“Lease” a real property lease under which any one of the Payless Canada Entities was a lessee;

“Meetings Order” means the Order of the Court dated September 17, 2019 in connection with the CCAA Proceedings, which Meetings Order shall be acceptable to the Supporting Term Loan Lenders;

“Monitor” means FTI, in its capacity as court-appointed Monitor of the Payless Canada Entities;

“Monitor’s Certificate” has the meaning ascribed to that term in section 9.6 hereof;

“Monitor’s Website” means <http://cfcandada.fticonsulting.com/paylesscanada/>;

“Notice of Dispute of Claim Statement” has the meaning ascribed to that term in the Claims Procedure Order;

“Officer” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Payless Canada Entities;

“Order” means any order of the Court in the CCAA Proceedings;

“Outside Date” means December 31, 2019 (or such other date as the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders may agree);

“Payless Canada Entities” has the meaning ascribed to that term in the Recitals;

“Person” is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, Governmental Entity or any agency, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

“Plan” means this First Amended and Restated Plan of Compromise and Arrangement, including the Plan Supplement and any amendments, restatements, modifications or supplements hereto made from time to time in accordance with the terms hereof or made at the direction of the Court in the Sanction Order or otherwise;

“Plan Supplement” means the Plan Supplement to be filed with the Court, as defined and described in the Meetings Order, and for which greater certainty shall include, among other things, the quantum and mechanics for distributions in respect of the Term Loan Claims outside of the Plan;

“Post-Filing Claim” means any claims against any of the Payless Canada Entities that arose from the provision of authorized goods and services provided or otherwise incurred on or after the Filing Date, but shall not include a Restructuring Period Claim;

“Post-Filing Claim Reserve” means a Cash reserve, in the amount of set forth in the Plan Supplement, to be deposited by the Payless Canada Entities into the Post-Filing Claim Reserve Account for the purpose of paying the Post-Filing Claims;

“Post-Filing Claim Reserve Account” means a segregated interest-bearing trust account established by the Monitor to hold the Post-Filing Claim Reserve;

“Post-Filing Intercompany Loans” means the post-petition loans from Payless ShoeSource Canada LP to Payless Finance, Inc., which loans are reflected on the books and records of the U.S. Debtors and the Payless Canada Entities and bear interest at a rate of 6%;

“Priority Claim” means a Crown Priority Claim or an Employee Priority Claim;

“Priority Claim Reserve” means a Cash reserve, equal to the amount of the Priority Claims, to be deposited by the Payless Canada Entities into the Priority Claim Reserve Account for the purpose of paying the Priority Claims, which Priority Claim Reserve shall not exceed the amount set forth in the Plan Supplement;

“Priority Claim Reserve Account” means a segregated interest-bearing trust account established by the Monitor to hold the Priority Claim Reserve;

“Proof of Claim” has the meaning ascribed to that term in the Claims Procedure Order;

“Proven Claim” means a Proven General Unsecured Claim or a Proven Landlord Claim, as applicable;

“Proven General Unsecured Claim” means the amount of the General Unsecured Claim of a General Unsecured Creditor as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA;

“Proven Landlord Claim” means the amount of the Landlord Claim in respect of Lease as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA;

“Proven Landlord Creditor” means a holder of a Proven Landlord Claim;

“Proven Priority Claim” means a Priority Claim as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA

“Receiver” means FTI in its capacity as receiver, appointed pursuant to the terms of the Receivership Order;

“Receivership Order” means an order acceptable in form and substance to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders, and which shall be substantially in the form attached as Schedule “C” hereto;

“Released Claims” means the matters that are subject to release and discharge pursuant to section 8.1 hereof;

“Released Parties” has the meaning ascribed to that term in section 8.1 hereof;

“Released Party” means each of the Released Parties;

“Required Majorities” means the Landlord Required Majority and the General Unsecured Required Majority;

“Reserves” means the Administrative Reserve, the Directors’ Claim Reserve, the Priority Claim Reserve and the Post-Filing Claim Reserve;

“Restructuring Period Claim” shall have the meaning set forth in the Claims Procedure Order;

“S&K” means Seward & Kissell LLP, counsel to the U.S. Debtors, acting at the direction of the special committee, in the U.S. Proceedings;

“Sanction Motion” means the Payless Canada Entities’ motion for an order sanctioning this Plan;

“Sanction Order” means an order acceptable in form and substance to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders, and which shall be substantially in the form attached as Schedule “B” hereto;

“Section 5.1(2) Director/Officer Claims” means any Director/Officer Claims that may not be compromised pursuant to section 5.1(2) of the CCAA;

“Service List” means the service list maintained by the Monitor in respect of these CCAA Proceedings;

“Supporting Term Loan Lenders” means a majority of the Term Loan Lenders represented by Fasken;

“Tax” or **“Taxes”** means any and all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all

employment insurance, health insurance and Canada, Quebec and other government pension plan premiums or contributions;

“Taxing Authority” means any of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, any municipality of Canada, the Canada Revenue Agency, the Canada Border Services Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof and any Canadian or foreign government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power;

“Term Loan Agent” means Cortland Products Corp.;

“Term Loan Claims” means all Claims of the Term Loan Lenders under or in respect of the Term Loan Credit Facility against the Payless Canada Entities in an aggregate amount of USD\$277.2 million as of the Filing Date, or any of them, or in respect of which the Term Loan Agent holds a security interest in any assets, undertakings or properties of any Payless Canada Entity;

“Term Loan Credit Facility” means that certain Term Loan and Guarantee Agreement, dated as of August 10, 2017, by and among WBG – PSS Holdings LLC, Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc. and Payless ShoeSource Distribution, Inc., collectively, as borrowers, the guarantors party thereto, the Term Loan Lenders, and the Term Loan Agent, as administrative agent and collateral agent, as amended by amendment no. 1 dated October 26, 2017, as further amended by amendment no. 2 dated December 29, 2017 and amendment no. 3 dated June 19, 2018, and as the same may be amended from time to time;

“Term Loan Lenders” means the lenders from time to time party to the Term Loan Credit Facility;

“U.S. Debtors” means Payless Holdings LLC and its affiliated debtors and debtors in possession who have proposed the U.S. Plan in the U.S. Proceedings;

“U.S. Plan” means the joint plan of reorganization proposed by the U.S. Debtors;

“U.S. Proceedings” means the proceedings under chapter 11 of the United States Bankruptcy Code that are jointly administered under case no. 19-40883 in the United States Bankruptcy Court for the Eastern District of Missouri;

“Unaffected Claim” means

- (a) any Claims secured by any of the Charges;
- (b) any Claims that cannot be compromised pursuant to subsection 19(2) of the CCAA;
- (c) any Term Loan Claims;
- (d) any Priority Claims;

- (e) any Post-Filing Claims;
- (f) any Equity Claims, except to the extent set out in the Plan Supplement; and
- (g) any Claim entitled to the benefit of any applicable insurance policy, excluding any such Claim or portion thereof that is directly recoverable as against any of the Payless Canada Entities;

“Unaffected Creditor” means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim;

“Undeliverable Distribution” has the meaning given to that term in section 6.4;

“Voting Claim” means the amount of the General Unsecured Claim of a General Unsecured Creditors or the amount of a Landlord Claim of a Landlord against the Payless Canada Entities as finally accepted and determined for the purposes of voting at the Creditors’ Meeting, in accordance with the provisions of the Meetings Order and the CCAA;

“WEPPA” means the *Wage Earner Protection Program Act*, S.C. 2005, c. 47, s. 1, as amended; and

“Withholding Obligation” has the meaning set forth in section 6.5.

SCHEDULE "B"
FORM OF SANCTION ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR
JUSTICE McEWEN

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TUESDAY, THE 29TH
DAY OF OCTOBER, 2019

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "Applicants")

**ORDER
(Plan Sanction)**

THIS MOTION made by Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") for an Order (the "**Sanction Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") *inter alia* (a) approving and sanctioning the First Amended and Restated Plan of Compromise and Arrangement of the Payless Canada Entities dated October ●, 2019 (the "**Plan**"), a copy of which (including the Plan Supplement dated October ●, 2019) is attached hereto as **Schedule "A"**, and (b) approving the supplement to the Fifth Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "**Monitor**") dated September 17, 2019 (the "**Supplemental Report**"), the Sixth Report of the Monitor, dated October ●, 2019 (the "**Sixth Report**") and the Seventh Report of the Monitor,

dated October ●, 2019 (the “**Seventh Report**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of Stephen Marotta sworn October [23], 2019 including the exhibits thereto, the Supplemental Report, the Sixth Report, the Seventh Report, the affidavit of Taschina Ashmeade sworn October ●, 2019, and upon hearing the submissions of counsel for the Payless Canada Entities, the Supporting Term Loan Lenders, and the Monitor, and no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn October ●, 2019;

DEFINED TERMS

1. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall be as defined in the Meetings Order granted in these proceedings (the “**CCAA Proceedings**”) by Justice McEwen on September 19, 2019 (the “**Meetings Order**”) or the Plan, as applicable.

SERVICE, NOTICE AND MEETINGS

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record, the Sixth Report and the Seventh Report be and is hereby validated such that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

3. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient service, delivery and notice to all Affected Creditors of the Information Package, the Plan Supplement, the amendments to the Plan, the Sixth Report and the Seventh Report, and that the Creditors’ Meetings were duly, called, convened, held and conducted all in conformity with the CCAA, the Meetings Order and all other Orders of this Court in the CCAA Proceedings (collectively, the “**CCAA Orders**”).

SANCTION OF THE PLAN

4. **THIS COURT ORDERS AND DECLARES** that:

- (a) Pursuant to the Meetings Order, the relevant classes of creditors of the Payless Canada Entities for the purposes of voting to approve the Plan are the General Unsecured Creditors and the Landlords;
- (b) the Plan has been approved by Required Majorities, all in conformity with the CCAA and the terms of the CCAA Orders;
- (c) the Payless Canada Entities have acted, and are acting, in good faith and with due diligence, and have complied with the provisions of the CCAA and the CCAA Orders in all respects;
- (d) the Court is satisfied that the Payless Canada Entities have not done or purported to do anything that is not authorized by the CCAA; and
- (e) the Plan, all terms and conditions thereof, and the matters and the transactions contemplated thereby, are fair and reasonable.

5. **THIS COURT ORDERS** that the Plan and the Plan Supplement are hereby sanctioned and approved pursuant to section 6 of the CCAA.

PLAN IMPLEMENTATION

6. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, transactions, arrangements, and releases effected thereby (including, without limitation, the events, transactions and steps set out in the Plan Supplement) are hereby approved, shall be deemed to be implemented and shall be binding and effective as of the Effective Time in accordance with the terms of the Plan and the Plan Supplement or at such other time, times or manner as may be set forth in the Plan or the Plan Supplement in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon the Payless Canada Entities, the Monitor, the Directors, the Officers, all Affected Creditors, the Released Parties, and all other Persons and parties named or referred to in, affected by, or subject to the Plan as provided for in the Plan, the Plan Supplement or this Sanction Order.

7. **THIS COURT ORDERS** that each of the Payless Canada Entities, the Directors, the Officers, and the Monitor, as applicable, is authorized and directed to take all steps and actions

and to do all things, necessary or appropriate, to implement the Plan (including the Plan Supplement) in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated by, and subject to the terms and conditions of, the Plan and the Plan Supplement, and all such steps and actions are hereby authorized, ratified and approved. None of the Payless Canada Entities, the Directors, the Officers, nor the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan, the Plan Supplement, and this Sanction Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of such parties.

8. **THIS COURT ORDERS** that upon delivery of written notice from the Payless Canada Entities (or counsel on their behalf) to the Monitor, the Term Loan Agent and the Supporting Term Loan Lenders that the conditions to Plan implementation set out in the Plan have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, and file with the Court, a certificate substantially in the form attached hereto as **Schedule “B”** (the **“Monitor’s Certificate”**) which states that all conditions precedent to Plan implementation set out in the Plan have been satisfied or waived and that the Implementation Date and Effective Time (which both shall be set out on the certificate) have occurred and that the Plan, the Plan Supplement and the provisions of the Sanction Order which come into effect on the Implementation Date are effective in accordance with their respective terms. Following the delivery of the Monitor’s Certificate to the Payless Canada Entities, the Monitor shall file the Monitor’s Certificate with the Court, and shall post a copy of same, once filed, on the Monitor’s Website and provide a copy to the Service List. Upon delivery of the Monitor’s Certificate to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, all applicable parties shall take such steps as are required to implement the steps set out in the Plan Supplement.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

9. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Plan and the Plan Supplement, at the Effective Time, all existing Claims of Affected Creditors against the Payless Canada Entities shall be fully, finally, irrevocably and forever compromised,

released, discharged, cancelled, extinguished and barred and all proceedings with respect to, in connection with or relating to such Claims shall permanently be stayed against the Released Parties, subject only to (i) the right of Affected Creditors to receive the distributions pursuant to the Plan and this Sanction Order in respect of their Claims and (ii) the right of Affected Creditors who are or were employees of the Payless Canada Entities to make application for payment in respect of eligible wages (as defined in WEPPA) under WEPPA, each in the manner and to the extent provided for in the Plan.

10. **THIS COURT ORDERS** that the determination of Proven Claims in accordance with the Claims Procedure Order, the Meetings Order, and Plan shall be final and binding on the Payless Canada Entities and all Affected Creditors.

11. **THIS COURT ORDERS** that an Affected Creditor holding a Disputed Claim shall not be entitled to receive a distribution under the Plan in respect of any portion thereof unless and until such Disputed Claim becomes a Proven Claim in accordance with the Claims Procedure Order, the Meetings Order, and the Plan. The Monitor shall have no obligation to make distributions to Affected Creditors prior to the Affected Creditor Distribution Date.

12. **THIS COURT ORDERS** that nothing in the Plan extends to or shall be interpreted as extending or amending the Claims Bar Date or the Restructuring Period Claims Bar Date or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order. Any Affected Claim or Director/Officer Claim for which a Claim Statement or Amended Claim Statement, as applicable, was not sent and a Proof of Claim or Director/Officer Proof of Claim has not been filed in accordance with the Claims Procedure Order, whether or not the holder of such Affected Claim or Director/Officer Claim has received personal notification of the claims process established by the Claims Procedure Order, have been, shall be and are hereby forever barred, extinguished and released with prejudice.

13. **THIS COURT ORDERS** that, except to the extent expressly contemplated by the Plan, the Plan Supplement or this Sanction Order, all obligations or agreements to which the Payless Canada Entities are a party to immediately prior to the Effective Time, will be and shall remain in full force and effect as at the Implementation Date, unamended except as they may have been

amended by agreement of the parties to such agreement, and no Person (excluding the Term Loan Agent and the Term Loan Lenders in respect of the Term Loan Claims, to whom the balance of paragraph 13 does not apply) who is a party to any such obligation or agreement shall, following the Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, option, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason of: (i) any defaults or events of default arising as a result of the insolvency of the Payless Canada Entities prior to the Implementation Date; (ii) any change of control of the Payless Canada Entities arising from the implementation of the Plan; (iii) the fact that the Payless Canada Entities have sought or obtained relief under the CCAA or that the Plan has been implemented by the Payless Canada Entities; (iv) the effect on the Payless Canada Entities of the completion of any of the transactions contemplated by the Plan or the Plan Supplement; (v) any compromises, arrangements, or reorganization effected pursuant to the Plan or the Plan Supplement; (vi) the making of the Receivership Order or the appointment of the Receiver, or (vii) any other event(s) which occurred on or prior to the Implementation Date which would have entitled any Person to enforce rights and remedies subject to any express provisions to the contrary in any agreements entered into with the Payless Canada Entities after the Filing Date.

14. **THIS COURT ORDERS** that from and after the Implementation Date, all Persons (excluding the Term Loan Agent and the Term Loan Lenders in respect of the Term Loan Claims, to whom the balance of paragraph 14 does not apply) shall be deemed to have waived any and all defaults of the Payless Canada Entities then existing or previously committed by the Payless Canada Entities, or caused by the Payless Canada Entities, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and any of the Payless Canada Entities arising directly or indirectly from the filing by the Payless Canada Entities under the CCAA and the implementation of the Plan or the Plan Supplement, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be

deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Payless Canada Entities from performing their obligations under the Plan and the Plan Supplement or be a waiver of defaults by the Payless Canada Entities under the Plan and the Plan Supplement and the related documents.

15. **THIS COURT ORDERS** that on the Implementation Date, the Payless Canada Entities are authorized and directed to fund the Reserves and Affected Creditor Distribution Account in accordance with the Plan and the Plan Supplement. No amounts in the Reserves or the Affected Creditor Distribution Account shall be or be deemed to be held in trust for any Claimant.

16. **THIS COURT ORDERS** that sections 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances, transfers at undervalue or oppression, shall not apply in any respect including, without limitation, to any dealings prior to the Filing Date, to the Plan, to the Plan Supplement, to any payments or distributions made in connection with the restructuring and recapitalization of the Payless Canada Entities, whether made before or after the Filing Date, or to any and all transactions contemplated by and to be implemented pursuant to the Plan and the Plan Supplement.

DISTRIBUTIONS

17. **THIS COURT ORDERS** that upon delivery of the funds constituting the Affected Creditor Distribution to the Affected Creditor Distribution Account by the Payless Canada Entities such funds shall be distributed to Affected Creditors under the Plan free and clear of all claims, rights, security interest or charges in favour of the Term Loan Lenders and the Term Loan Agent.

18. **THIS COURT ORDERS AND DECLARES** that all distributions or payments by the Monitor, on behalf of the Payless Canada Entities, to Affected Creditors with Proven Claims under the Plan are for the account of the Payless Canada Entities and the fulfillment of the Payless Canada Entities' obligations under the Plan.

19. **THIS COURT ORDERS** all distributions or other payments to be made under the Plan to General Unsecured Creditors, Landlords or the Receiver are conditional on the receipt of the Comfort Letter from the applicable Governmental Entity and in the event such Comfort Letter is not received by December 31, 2019, the Payless Canada Entities shall notify the Term Loan

Agent and the Supporting Term Loan Lenders and, in consultation with the Monitor, may seek further directions of the Court on at least five (5) Business Days' notice to the Service List.

20. **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor are authorized to take any and all such actions as may be necessary or appropriate to comply with applicable tax withholding and reporting requirements, if any, relating to the distributions contemplated in the Plan and Plan Supplement. All amounts withheld on account of Taxes, if any, relating to the distributions contemplated in the Plan and Plan Supplement, shall be approved by the Monitor in advance (having regard to, *inter alia*, the claims of the Term Loan Agent and the Term Loan Lenders, and the priority thereof) and treated for all purposes as having been paid to Affected Creditors in respect of which such withholding was made, provided such withheld amounts are remitted to the appropriate Taxing Authority in accordance with legal requirements.

21. **THIS COURT ORDERS AND DECLARES** that the Payless Canada Entities or the Monitor on behalf of the Payless Canada Entities, as the case may be, shall be authorized, in connection with the making of any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan and the Plan Supplement, to apply to any Governmental Entity for any consent, authorization, certificate or approval in connection therewith.

22. **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan or this Sanction Order (including without limitation distributions made to or for the benefit of the Affected Creditors, Claims against the Reserves, the Term Loan Lenders or any other Person) shall not constitute a "distribution" by any person for the purposes of section 107 of the *Corporations Tax Act* (Ontario), section 22 of the *Retail Sales Tax Act* (Ontario), section 117 of the *Taxation Act, 2007* (Ontario), section 34 of the *Income Tax Act* (British Columbia), section 104 of the *Social Service Tax Act* (British Columbia), section 49 of the *Alberta Corporate Tax Act*, section 22 of the *Income Tax Act* (Manitoba), section 73 of *The Tax Administration and Miscellaneous Taxes Act* (Manitoba), section 14 of *An Act respecting the Ministère du Revenu* (Quebec), section 85 of *The Income Tax Act, 2000* (Saskatchewan), section 48 of *The Revenue and Financial Services Act* (Saskatchewan), section 56 of the *Income Tax Act* (Nova Scotia), section 48 of the *Income Tax Act* (Prince Edward Island), subsection 78(1) of the *New Brunswick Income Tax Act*, section 54 of the *Income Tax Act, 2000*

(Newfoundland and Labrador), section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Tax Statutes**”), and the Monitor, in making any such distributions, disbursements or payments on behalf of the Payless Canada Entities, as applicable, is merely a disbursing agent under the Plan and is not exercising any discretion in making payments under the Plan and no person is “distributing” such funds for the purpose of the Tax Statutes, and the Payless Canada Entities, the Monitor and any other person shall not incur any liability under the Tax Statutes in respect of distributions, disbursements or payments made by it and the Payless Canada Entities, the Monitor and any other person is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and this Sanction Order and any claims of this nature are hereby forever barred.

CHARGES

23. **THIS COURT ORDERS** that the Administration Charge and the Directors’ Charge shall continue in full force and effect and shall, from and after the Effective Time, attach solely against the Administrative Reserve and the Directors’ Claim Reserve, respectively.

RELEASES

24. **THIS COURT ORDERS AND DECLARES** that the compromises, arrangements, releases, discharges and injunctions contemplated in section 4.7 and Article 8 of the Plan, including those granted by and for the benefit of the Released Parties are integral components thereof and that, effective on the Implementation Date, all such compromises, releases, discharges and injunctions contemplated in the Plan are effective, sanctioned, approved and given full force and effect.

25. **THIS COURT ORDERS** that nothing contained in this Order shall release or discharge:

- (c) the Payless Canada Entities and their respective assets, undertakings and properties from any Unaffected Claim that has not been paid in full under the Plan or the Plan Supplement to the extent of such non-payment;

- (d) a Released Party from its obligations under the Plan or the Plan Supplement;
- (e) subject to paragraph 26 below, a Released Party found by a court of competent jurisdiction by final determination on the merits to have committed fraud or wilful misconduct in relation to a Released Claim for which it is responsible at law; or
- (f) subject to paragraph 26 below, the Directors from any Claims which have been preserved in accordance with the Claims Procedure Order that cannot be compromised due to the provisions of section 5.1(2) of the CCAA.

26. **THIS COURT ORDERS** that, to the extent not barred, released or otherwise affected by paragraph 12 above, and notwithstanding paragraph 25 above, any Person having, or claiming any entitlement or compensation relating to, a Director/Officer Claim (with the exception of any Director/Officer Claims judged by the express terms of a judgment rendered on a final determination on the merits to have resulted from criminal, fraudulent or other wilful misconduct on the part of the Director or Officer (an “**Excluded Director/Officer Claim**”)) will be irrevocably limited to recovery in respect of such Director/Officer Claim solely from the proceeds of the applicable insurance policies held by the Payless Canada Entities (the “**Insurance Policies**”), and Persons with any Director/Officer Claims will have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from the Payless Canada Entities or any Released Party, other than enforcing such Person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable Insurance Policies. Nothing in this Plan Sanction Order prejudices, compromises, releases or otherwise affects any right or defence of any insurer in respect of an Insurance Policy or any insured in respect of a Director/Officer Claim. Notwithstanding anything to the contrary herein, from and after the Implementation Date, a Person may only commence or continue an action for an Excluded Director/Officer Claim against a Director or Officer if such Person has first obtained leave of the Court on notice to the applicable Directors and Officers, the Monitor and the Payless Canada Entities.

27. **THIS COURT ORDERS** that from and after the Implementation Date, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative

hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Claims and matters which are released pursuant to Article 8 of the Plan or discharged, compromised or terminated pursuant to the Plan, except as against the applicable insurer(s) to the extent that Persons with Director/Officer Claims seek to enforce rights to be paid from the proceeds of the Insurance Policies, and provided that any claimant in respect of a Director/Officer Claim that was duly filed with the Monitor by the Claims Bar Date shall be permitted to file a statement of claim in respect thereof to the extent necessary solely for the purpose of preserving such claimant's ability to pursue such Director/Officer Claim against an insurer in respect of an Insurance Policy. Notwithstanding anything to the contrary contained herein, from and after the Implementation Date, a Person may only commence or continue an action against a Released Party in respect of a matter that is not released pursuant to Article 8.1(a)-(d) of the Plan if such Person has first obtained leave of the Court on notice to the applicable Released Party, the Payless Canada Entities, the Monitor and the insurer(s) under any applicable Insurance Policy.

28. **THIS COURT ORDERS** that, on the Implementation Date, each Affected Creditor, each holder of a Director/Officer Claim and any Person having a Released Claim shall be deemed to have consented and agreed to all of the provisions of the Plan and the Plan Supplement, in their entirety, and, in particular, each Affected Creditor, each holder of a Director/Officer Claim and any Person having a Released Claim shall be deemed:

- (a) to have executed and delivered to the Monitor, the Payless Canada Entities and the other Released Parties all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan and the Plan Supplement in their entirety; and
- (b) to have agreed that if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor, holder of a Director/Officer Claim, and the Payless Canada Entities as of the Implementation Date and the provisions of the Plan and the Plan Supplement, the provisions of the Plan and the Plan Supplement take precedence

and priority, and the provisions of such agreement or other arrangements shall be deemed to be amended accordingly.

THE MONITOR

29. **THIS COURT ORDERS** that in addition to its prescribed rights and obligations under the CCAA and the CCAA Orders, the Monitor is granted the powers, duties and protections contemplated by and required under the Plan and Plan Supplement and that the Monitor be and is hereby authorized, entitled and empowered to perform its duties and fulfil its obligations under the Plan and the Plan Supplement to facilitate the implementation thereof and to apply to this Court for any orders necessary or advisable to carry out its powers and obligations under any other CCAA Order.

30. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order or the provisions of any other CCAA Order, including this Sanction Order, the Payless Canada Entities shall, subject to the terms of the Receivership Order, remain in possession and control of the Property (as defined in the Initial Order) and the Monitor shall not take possession or be deemed to be in possession and/or control of the Property.

31. **THIS COURT ORDERS** that, subject to further order of the Court, the Payless Canada Entities shall be and are hereby directed to maintain the books and records of the Payless Canada Entities for purposes of assisting the Monitor in the completion of the resolution of the General Unsecured Claims and Landlord Claims.

32. **THIS COURT ORDERS AND DECLARES** that in no circumstance will the Monitor have any liability for any of the Payless Canada Entities' tax liabilities regardless of how or when such liabilities may have arisen, nor will the Monitor or the Directors have any liability for any tax liabilities arising as a result of any distributions to be made by the Monitor or the Payless Canada Entities under the Plan or Plan Supplement.

33. **THIS COURT ORDERS** that, effective upon the delivery of the Monitor's Certificate to the Payless Canada Entities in accordance with paragraph 8 hereof, the Payless Canada Entities shall not be subject to the restrictions, obligations, requirements or provisions of paragraphs 12, 12A, and 12B of the Initial Order.

STAY OF PROCEEDINGS

34. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 18 of the Initial Order) be and is hereby extended until February 28, 2020.

35. **THIS COURT ORDERS** that to the extent necessary, the Stay of Proceedings is hereby lifted for the limited purpose of permitting the forgiveness or cancellation in whole or in part of the Intercompany Claims as set out in U.S. Plan.

APPROVAL OF MONITOR'S SUPPLEMENTAL REPORT, SIXTH REPORT AND SEVENTH REPORT

36. **THIS COURT ORDERS** that the Supplemental Report, the Sixth Report and the Seventh Report and the activities of the Monitor, as applicable, referred to therein, be and are hereby approved; *provided, however*, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

37. **THIS COURT ORDERS** that the Payless Canada Entities, the Monitor and any other interested parties are hereby granted leave to apply to this Court for such further advice, directions or assistance as may be necessary to give effect to the terms of the Plan and any other matters that pertain to the completion of the administration of the CCAA Proceedings.

38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to recognize and give effect to the Plan and this Sanction Order, to confirm the Plan and this Sanction Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of the Plan and this Sanction Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Payless Canada Entities, and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Sanction Order, to grant representative status to the Payless

Canada Entities in any foreign proceeding, or to assist the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Sanction Order.

SCHEDULE "A"
FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

SCHEDULE "B"
FORM OF MONITOR'S PLAN IMPLEMENTATION DATE CERTIFICATE

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "**Applicants**")

**MONITOR'S CERTIFICATE
(Plan Implementation)**

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Order of the Honourable Mr. Justice McEwen made in these proceedings on October [29], 2019 (the "**Sanction Order**").

Pursuant to paragraph 8 of the Sanction Order, FTI Consulting Canada Inc., solely in its capacity as Court-appointed monitor (the "**Monitor**") of the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**"), delivers to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lender this certificate and hereby certifies that it has been informed in writing by the Payless Canada Entities that all of the conditions precedent set out in the Plan have been satisfied or waived, and that the Effective Time of the Plan is _____ [a.m/p.m.] on _____, being the Implementation Date. The Implementation Date has occurred and the Plan, the Plan Supplement and the provisions of the Sanction Order which come into effect on the Implementation Date are effective in accordance with their respective terms. This Certificate will be filed with the Court and posted on the website maintained by the Monitor.

DATED at the City of Toronto, in the Province of Ontario, this ● day of ●, 2019 at [● a.m./p.m.]

FTI CONSULTING CANADA INC., solely in its capacity as Court-appointed Monitor of the Payless Canada Entities and not in its personal or corporate capacity

By: _____
Name:
Title:

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS
SHOESOURCE CANADA GP INC.**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

PLAN SANCTION ORDER

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LP*

SCHEDULE "C"
FORM OF RECEIVERSHIP ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE MR
JUSTICE McEWEN

)
)
)

TUESDAY, THE 29TH
DAY OF OCTOBER, 2019

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "**Applicants**")

RECEIVERSHIP ORDER

THIS MOTION made by FTI Consulting Canada Inc. ("**FTI**"), in its capacity as court-appointed monitor (the "**Monitor**") of the Applicants and Payless ShoeSource Canada LP (the "**Payless Canada Entities**") for an Order (the "**Receivership Order**") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") appointing FTI as receiver (in such capacity, the "**Receiver**") without security, of all Employee Distributions (as defined in the First Amended and Restated Plan of Compromise and Arrangement of the Payless Canada Entities dated October ●, 2019, as may be further amended from time to time (the "**CCAA Plan**")), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Monitor, the Affidavit of Stephen Marotta sworn October [23], 2019 including the exhibits thereto, the [seventh] report of the Monitor dated October ●, 2019, and on hearing the submissions of counsel for the Payless Canada Entities, the Monitor, FTI (as the proposed Receiver), the Term Loan Agent and the Supporting Term

Loan Lenders, and no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn October ●, 2019, and on reading the consent of FTI to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the CCAA Plan.

LIFTING OF THE STAY

3. **THIS COURT ORDERS** that the stay of proceedings granted by this Court under the Initial Order dated February 19, 2019, (the "**Initial Order**") is hereby lifted with respect to the Payless Canada Entities and the Receivership Property (as defined below) solely to allow: (i) the appointment of the Receiver over the Receivership Property on the Receivership Effective Date (as defined below); and (ii) the Receiver to act in respect of the Receivership Property, each in accordance with the provisions of this Receivership Order.

APPOINTMENT

4. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and effective upon service on the Service List of the certificate attached as **Schedule "A"** hereto (the "**Receivership Effective Date**") confirming that the Affected Creditor Distribution Date has occurred, FTI will hereby be appointed Receiver, without security, of all Employee Distributions and Cash in the amount of \$100.00 to be transferred by Payless ShoeSource Canada LP to the Receiver (the "**Receivership Property**"), and no other property of the Payless Canada Entities.

5. **THIS COURT DECLARES** that the Receiver is a receiver within the meaning of section 243(1) of the BIA.

RECEIVER'S POWERS

6. **THIS COURT ORDERS** that, from and after the Receivership Effective Date, the Receiver will be empowered and authorized, but not obligated, to act at once in respect of the

Receivership Property and the Receiver will be expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) subject to paragraphs 11, 13 and 14 of this Receivership Order, to exercise control over the Receivership Property;
- (b) to perform its statutory obligations under the *Wage Earner Protection Program Act* (Canada) (the “**WEPPA**”);
- (c) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (d) to engage counsel to assist with the exercise of the Receiver’s powers conferred by this Receivership Order,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusions of all other Persons (as defined below), including the Payless Canada Entities and without interference from any other Person.

7. **THIS COURT ORDERS** that the Receiver be and is hereby relieved from compliance with the provision of sections 245(1), 245(2) and 246 of the BIA, provided that the Receiver shall provide notice of its appointment in the prescribed form and manner to the Superintendent of Bankruptcy, accompanied by the prescribed fee.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. **THIS COURT ORDERS** that (i) the Payless Canada Entities, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Receivership Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith grant access to the Receivership Property to the Receiver upon the Receivership Effective Date.

9. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Receivership

Property and the current (if any) and former employees of the Payless Canada Entities for the purposes of complying with the Receiver's statutory obligations under the WEPPA, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 9 or in paragraph 10 of this Receivership Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to applicable laws prohibiting such disclosure.

10. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER OR THE RECEIVERSHIP PROPERTY

11. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or the Receivership Property except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Receiver or the Receivership Property are hereby stayed and suspended pending further Order of this Court.

EMPLOYEES

12. **THIS COURT ORDERS** that employees of the Payless Canada Entities, if any, shall remain the employees of the Payless Canada Entities until such time as the Payless Canada Entities may terminate the employment of such employees and the Receiver shall not be liable

for any employee-related liabilities or obligations, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Receivership Property or any of the Payless Canada Entities' other assets, property or undertaking, including (without limitation) property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial, or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**").

POSSESSION OF RECEIVERSHIP PROPERTY

14. **THIS COURT ORDERS** that the Receiver shall take no part whatsoever in the management or supervision of the management of the Business (as defined in the Initial Order) and the Receiver shall not, as a result of this Receivership Order or anything done in pursuance of the Receiver's duties and powers under this Receivership Order, be deemed to be in possession of or be deemed to have taken any steps to dispose of any of the Receivership Property, or of any other assets, property or undertaking of the Payless Canada Entities, including (without limitation) within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

15. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its delivery of the Receivership Certificate, its appointment or the carrying out the provisions of this Receivership Order, including any liability or obligation in respect of taxes, withholdings, interest, penalties, or other like claims, save and except for any gross negligence or wilful misconduct on its part, and it shall have no obligations under sections 81.4(5) or 81.6(3) of the

BIA. Nothing in this Receivership Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

COSTS OF ADMINISTRATION

16. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, in an amount up to but not exceeding the amount of the Receivership Property, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Receivership Property, as security for such fees and disbursements, both before and after the making of this Receivership Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Receivership Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

17. **THIS COURT ORDERS** that, if requested by the Court or any interested person, the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

18. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the Receivership Property, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

TERMINATION OF THE RECEIVERSHIP

19. **THIS COURT ORDERS** that unless otherwise ordered by the Court following the completion of the Receivers' duties under this Receivership Order, any Receivership Property remaining after payment of all fees and expenses of the Receiver and its counsel shall be remitted to Service Canada as subrogee of Claims paid in respect of eligible wages (as defined in WEPPA), as contemplated by WEPPA.

SERVICE AND NOTICE

20. **THIS COURT ORDERS** that, subject to further Order of the Court, service and notice with respect to this Receivership Order and the appointment of the Receiver shall be in accordance with paragraphs 54, 55, 56, and 57 of the Initial Order.

INITIAL ORDER, CCAA PLAN AND SANCTION ORDER

21. **THIS COURT ORDERS** that, except as expressly stated herein with respect to the Receivership Property, nothing herein amends the terms of the Initial Order, including the powers, authorizations, obligations and protections for the Monitor, the Payless Canada Entities and the Payless Canada Entities' directors and officers contained in the Initial Order.

22. **THIS COURT ORDERS** that, nothing herein amends the terms of the CCAA Plan or the Sanction Order, including the compromises, discharges, releases and injunctions provided for therein.

WEPPA

23. **THIS COURT ORDERS** that (i) notwithstanding subsection 21(1)(d) of WEPPA and subsection 16(1)(b) of the WEPPA Regulations, each individual (as such term is used in WEPPA) will not be required to, and shall not, deliver a proof of claim for wages owing, and the Receiver will instead accept the individual's CCAA claim for purposes of administration of WEPPA in this proceeding, and (ii) notwithstanding subsection 15(1)(d) of the WEPPA Regulations, the Receiver shall advise the Minister (as defined in WEPPA), and the Minister shall accept, that the requirement of an individual to deliver a proof of claim for wages owing was met given the acceptance of claims referred to immediately above.

24. **THIS COURT ORDERS** that, for the purposes of WEPPA and these receivership proceedings, (i) Payless ShoeSource Canada LP is subject to the CCAA Proceedings, (ii) the wage eligibility period for the purpose of establishing eligible wages under WEPPA in accordance with subsection 2(1)(a)(ii) of WEPPA has occurred, and (iii) the wage eligibility period began six months prior to the date of commencement of the CCAA Proceedings.

GENERAL

25. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

26. **THIS COURT ORDERS** that nothing in this Receivership Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Payless Canada Entities (or any of them).

27. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Receivership Order and to assist the Receiver and its agents in carrying out the terms of this Receivership Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Receivership Order or to assist the Receiver and its agents in carrying out the terms of this Receivership Order.

28. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Receivership Order and for assistance in carrying out the terms of this Receivership Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

29. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Receivership Order on not less than seven (7) days' notice to the Receiver and the Payless Canada Entities and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER CERTIFICATE

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

RECEIVERSHIP CERTIFICATE

The undersigned confirm that this is the "Receivership Certificate" referred to in the Receivership Order of the Ontario Superior Court of Justice (Commercial List) made on October 29, 2019, and that in accordance with paragraph 4 of the Receivership Order, the Affected Creditor Distribution Date as defined in the First Amended and Restated Plan of Compromise and Arrangement of the Payless Canada Entities dated October ●, 2019, as may be further amended from time to time, has occurred and that the Receivership Effective Date shall be effective upon service of this certificate on the Service List.

PAYLESS SHOESOURCE CANADA
INC., PAYLESS SHOESOURCE
CANADA GP INC. AND PAYLESS
SHOESOURCE CANADA LP

FTI CONSULTING CANADA INC., SOLELY IN
ITS CAPACITY AS PROPOSED RECEIVER,
AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY

Per: _____
Name:
Title

Per: _____
Name:
Title:

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A
PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

RECEIVERSHIP ORDER

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ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP*

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**FIRST AMENDED AND RESTATED PLAN OF COMPROMISE
AND ARRANGEMENT**

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*Lawyers for Payless ShoeSource Canada Inc., Payless
ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP*

This is **Exhibit "B"**
to the affidavit of **Taschina Ashmeade**
sworn before me this 16th day of
October 2019


..... Behnoosh Nasri
A Commissioner for Taking Affidavits
LSO#P14845

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "Applicants")

FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT*

concerning, affecting and involving

PAYLESS SHOESOURCE CANADA INC., PAYLESS SHOESOURCE CANADA GP INC., and
PAYLESS SHOESOURCE CANADA LP

~~September 17,~~ October 16, 2019

FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

A. Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc., collectively the “**Applicants**” are debtor companies (as such term is defined in the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”)).

B. On February 19, 2019, the Honourable Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Initial Order in respect of the Applicants (as such Order may be amended, restated or varied from time to time, the “**Initial Order**”) pursuant to the CCAA. The protections of the Initial Order extend to Payless ShoeSource Canada LP (together with the Applicants, the “**Payless Canada Entities**”).

C. On September ~~17~~, 19, 2019, the Court granted a Meetings Order (as such Order may be amended, restated or varied from time to time, the “**Meetings Order**”) pursuant to which, among other things, the Payless Canada Entities were authorized to file this Plan and to convene meetings of Affected Creditors to consider and vote on this Plan.

D. The Payless Canada Entities have engaged in good faith discussions with the Monitor and the Supporting Term Loan Lenders and determined that certain matters in the Plan require amendment at this time.

NOW THEREFORE the Payless Canada Entities hereby propose and present this plan of compromise and arrangement under the CCAA.

ARTICLE 1 INTERPRETATION

1.1 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) In this Plan and the Recitals, unless otherwise stated or the subject matter or context otherwise requires, all terms defined herein have their meanings ascribed thereto on Schedule “A”;
- (b) Any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means such document shall be substantially in such form or substantially on such terms and conditions;
- (c) Unless otherwise expressly provided herein, any reference in this Plan to an instrument, agreement or an Order or an existing document or exhibit filed or to be filed means such instrument, agreement, Order, document or exhibit as it may have been or may be amended, modified, or supplemented in accordance with its terms;
- (d) The division of this Plan into articles and sections is for convenience of reference only and does not affect the construction or interpretation of this Plan,

nor are the descriptive headings of articles and sections intended as complete or accurate descriptions of the content thereof;

- (e) The use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of this Plan to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) The words “includes” and “including” and similar terms of inclusion shall not, unless expressly modified by the words “only” or “solely”, be construed as terms of limitation, but rather shall mean “includes but is not limited to” and “including but not limited to”, so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) Unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (h) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends;
- (i) Unless otherwise provided, any reference to a statute or other enactment of parliament, a legislature or other Governmental Entity includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (j) References to a specific Recital, Article or Section shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specific Recital, Article or Section of this Plan, whereas the terms “this Plan”, “hereof”, “herein”, “hereto”, “hereunder” and similar expressions shall be deemed to refer generally to this Plan and not to any particular Recital, Article, Section or other portion of this Plan and include any documents supplemental hereto; and
- (k) The word “or” is not exclusive.

1.2 Governing Law

This Plan shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation or application of this Plan and all proceedings taken in connection with this Plan and its provisions shall be subject to the jurisdiction of the Court.

1.3 Currency

Unless otherwise stated, all references in this Plan to sums of money are expressed in, and all payments provided for herein shall be made in, Canadian dollars. In accordance with paragraph 8 of the Claims Procedure Order, any Claim (other than Priority Claims) in a currency other than Canadian dollars must be converted to Canadian dollars, and any such amount shall be regarded as having been converted at the daily exchange rate quoted by the Bank of Canada for exchanging such currency to Canadian dollars as at the Filing Date, which rate for the conversion of United States currency is _____ ~~US\$1:CAD\$1:US\$1.323,1.323~~ notwithstanding anything in the Claims Procedure Order.

1.4 Date for Any Action

If the date on which any action is required to be taken hereunder by a Person is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

Time shall be of the essence in this Plan.

ARTICLE 2 PURPOSE AND EFFECT OF THIS PLAN

2.1 Purpose

The purpose of this Plan is to coordinate, on a cross-border basis with the U.S. Proceedings, a cost-effective means of making distributions to the Affected Creditors in the expectation that Persons who have an economic interest in any of the Payless Canada Entities, when considered as a whole, will derive a greater benefit from the implementation of this Plan than would result from a bankruptcy of the Payless Canada Entities.

The Term Loan Agent holds a valid and enforceable security interest in all of the assets, undertakings and properties of the Payless Canada Entities in respect of the Term Loan Claims. It is contemplated that certain amounts will be distributed from the Payless Canada Entities to, or for the ultimate benefit of, the Term Loan Lenders outside of this Plan.

2.2 Effectiveness

Subject to the satisfaction, completion or waiver (to the extent permitted pursuant to section 9.4) of the conditions precedent set out herein, this Plan will become effective in the sequence described in the Plan Supplement from and after the Effective Time and shall be binding on and enure to the benefit of the Payless Canada Entities, the Affected Creditors, the Released Parties, and all other Persons as provided for herein, or subject to, this Plan and their respective successors and assigns and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

2.3 Persons Not Affected

- (a) This Plan does not affect Unaffected Creditors to the extent of their Unaffected Claims. Nothing in this Plan shall affect the Payless Canada Entities' rights and defences, both legal and equitable, with respect to any Unaffected Claims, including, but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims, provided, however that the Payless Canada Entities hereby irrevocably (i) waive all such rights and defences with respect to the Term Loan Claims, and (ii) acknowledge that the security interests of the Term Loan Agent are valid and enforceable in accordance with their terms as against the Payless Canada Entities and their respective assets, undertakings and properties and stand as security for the Term Loan Claims. Except as otherwise provided for herein, nothing herein shall constitute a waiver of any rights of any Payless Canada Entity to dispute the quantum or validity of an Unaffected Claim. Other than with respect to Affected Claims and Released Claims this Plan does not affect or otherwise impair the Claims of any Person as against the Payless Canada Entities.

ARTICLE 3 CLASSIFICATION, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes

For the purposes of considering, voting on, and receiving distributions under this Plan, the Affected Creditors shall constitute two classes: (i) the General Unsecured Creditor class; and (ii) the Landlord class.

3.2 Claims of Affected Creditors

- (a) Except as otherwise provided in the Meetings Order or this Plan, Affected Creditors shall be entitled to vote their Voting Claims or Disputed Voting Claims at the applicable Creditors' Meeting(s) in respect of this Plan and shall be entitled to receive distributions on account of their Proven Claims as provided under and pursuant to this Plan.
- (b) Holders of Intercompany Claims shall not be entitled to vote at the Creditors' Meetings

3.3 Unaffected Claims

Unaffected Claims shall not be compromised under this Plan. No Unaffected Creditor shall be:

- (a) entitled to vote or (except as otherwise expressly stated in the Meetings Order or this Plan) attend in respect of their Unaffected Claims at any Creditors' Meetings to consider and approve this Plan; or

- (b) entitled to receive any distribution or consideration under this Plan in respect of such Unaffected Claim;

provided, however, nothing in this Plan, other than provisions related to the Affected Creditor Distribution Account, shall prohibit or impair any distributions to the Term Loan Lenders or the Term Loan Agent in respect of the Term Loan Claims, whether in the CCAA Proceedings or the U.S. Proceedings or otherwise.

Notwithstanding the above, the Supporting Term Loan Lenders and the Term Loan Agent may attend at the Creditors' Meetings but shall not be entitled to vote at the Creditors' Meetings in respect of any portion of the Term Loan Claims.

3.4 Creditors' Meetings

- (a) The Creditors' Meetings shall be held in accordance with this Plan, the Meetings Order and any further Order in the CCAA Proceedings.
- (b) If this Plan is approved by the Required Majorities in each voting class, then this Plan shall be deemed to have been agreed to, accepted and approved by the Affected Creditors and shall be binding upon all Affected Creditors immediately upon the delivery of the Monitor's Certificate in accordance with section 9.6 hereof.

3.5 Procedure for Valuing Voting Claims

The procedure for valuing Voting Claims and resolving Disputed Voting Claims of Eligible Voting Creditors shall be as set forth in the Claims Procedure Order, the Meetings Order, this Plan and the CCAA. The Payless Canada Entities and the Monitor shall have the right to seek the assistance of the Court in valuing any Voting Claim in accordance with the Claims Procedure Order, the Meetings Order and this Plan, if required, and to ascertain the result of any vote on this Plan.

ARTICLE 4 TREATMENT OF CLAIMS

4.1 Treatment of General Unsecured Claims

- (a) On the Implementation Date and in accordance with this Plan, each Proven General Unsecured Claim shall be entitled to receive a distribution in an amount equal to its General Unsecured Pro Rata Share of the General Unsecured Pool from the Affected Creditor Distribution Account.
- (b) Consistent with section 6.2 of this Plan, if the Receivership Order is granted, all Employee Distributions that would otherwise be payable under this Plan will be paid to the Receiver to be dealt with in accordance with the Receivership Order.

4.2 Treatment of Landlord Claims

- (a) On the Implementation Date and in accordance with this Plan, each Proven Landlord Claim shall be entitled to receive a distribution in an amount equal to the lesser of \$3,840.00 and the amount asserted in such Landlord's Notice of Dispute of Claim Statement or Proof of Claim, or if no Notice of Dispute of Claim Statement or Proof of Claim was filed, such Landlord's Claim Statement.
- (b) Only one distribution under [section 4.2\(a\) hereof](#) will be made in respect of each Lease regardless of whether one or more Person is identified as the Landlord under the Lease.

4.3 Treatment of Intercompany Claims

On the Implementation Date and in accordance with the steps and sequence as set forth in the Plan Supplement, all Intercompany Claims shall be preserved or extinguished at the election of the Payless Canada Entities, with the consent of the Supporting Term Loan Lenders.

4.4 Priority Claims

- (a) In accordance with the Sanction Order, the CCAA and with the steps and in the sequence set forth herein and the Plan Supplement, the Employee Priority Claims and the Crown Priority Claims, if any, shall be paid from the Priority Claim Reserve Account.
- (b) Subject to the Effective Time occurring: (i) all Crown Priority Claims that were outstanding as at the Filing Date shall be paid in full by the Monitor on behalf of the Payless Canada Entities, from the Priority Claim Reserve within six (6) months after the Sanction Order, as required by subsection 6(3) of the CCAA; and (ii) all Employee Priority Claims to the extent unpaid prior to the Implementation Date shall be paid by the Monitor, on behalf of the Payless Canada Entities, from the Priority Claim Reserve immediately after the Sanction Order as required by subsection 6(5) of the CCAA.

4.5 Disputed Claims

Any Affected Creditor with a Disputed Claim shall not be entitled to receive any distribution hereunder with respect to such Disputed Claim unless and until such Claim becomes a Proven Claim or a Proven Priority Claim in accordance with the Meetings Order. Distributions pursuant to and in accordance with this Plan shall be paid or distributed in respect of any Disputed Claim that is finally determined to be a Proven Claim in accordance with this Plan and the Meetings Order.

4.6 Director/Officer Claims

All Director/Officer Claims that are not (i) section 5.1(2) Director/Officer Claims, or (ii) judged by the express terms of a judgment rendered on a final determination on the

merits to have resulted from criminal, fraudulent or other wilful misconduct on the part of the Director or Officer, shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred without consideration on the Implementation Date.

4.7 Extinguishment of Claims

On the Implementation Date, in accordance with its terms and in the sequence set forth in the Plan Supplement (as applicable) and in accordance with the provisions of the Sanction Order, the treatment of Affected Claims (including Proven Claims, Intercompany Claims, Disputed Claims) and all Released Claims, in each case as set forth herein, shall be final and binding on the Payless Canada Entities, all Affected Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and any Person holding a Released Claim. All Affected Claims and all Released Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled and barred, and the Released Parties shall thereupon have no further obligation whatsoever in respect of the Affected Claims and the Released Claims, as applicable; provided that nothing herein releases any of the Payless Canada Entities or any other Person from their obligations to make distributions in the manner and to the extent provided for in this Plan and provided further that such discharge and release of the Payless Canada Entities shall be without prejudice to the right of an Affected Creditor in respect of a Disputed General Unsecured Claim or Disputed Landlord Claim to prove such Disputed General Unsecured Claim or Disputed Landlord Claim in accordance with the Claims Procedure Order or the Meetings Order so that such Disputed General Unsecured Claim or Disputed Landlord Claim may become a Proven Claim entitled to receive consideration under this Plan.

For certainty, all Affected Claims and Released Claims of Creditors who are or were employees of any of the Payless Canada Entities shall be fully, finally and irrevocably released, discharged, cancelled and barred pursuant to the terms hereof and the Sanction Order, except (notwithstanding anything contained in this section 4.7 or Article 8 hereof), if the Receivership Order has been granted, for the sole purpose of permitting, and only to the extent required to permit, individuals who are entitled to receive payment under WEPPA to make application for payment in respect of eligible wages (as defined in WEPPA) under and in accordance with WEPPA. No such individual or any person acting as assignee or subrogee (including the Crown) of or in respect of such claims shall have or be entitled to assert any claim against the Payless Canada Entities, their assets, directors or officers (other than as provided in Article 4 hereof and the Receivership Order) or against any other Released Party.

ARTICLE 5 CREATION OF POOL AND RESERVES

5.1 Creation of the General Unsecured Pool

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the General Unsecured Pool.
- (b) The Monitor shall hold the General Unsecured Pool in the Affected Creditor Distribution Account and shall distribute such Cash in the General Unsecured Pool to General Unsecured Creditors holding Proven General Unsecured Claims in accordance with Article 6 hereof.

5.2 Creation of the Landlord Pool

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Landlord Pool.
- (b) The Monitor shall hold the Landlord Pool in the Affected Creditor Distribution Account and shall distribute such Cash in the Landlord Pool to Proven Landlord Creditors holding Proven Landlord Claims in accordance with Article 6 hereof.

5.3 Creation of the Administrative Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Administrative Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Administrative Reserve in the Administrative Reserve Account for the purpose of paying the Administrative Reserve Costs in accordance with this Plan and shall distribute any remaining balance in the Administrative Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.4 Creation of the Priority Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the

Implementation Date), Cash in the amount necessary to establish the Priority Claim Reserve.

- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Priority Claim Reserve in the Priority Claim Reserve Account for the purpose of paying the Priority Claims in accordance with this Plan and shall distribute any remaining balance in the Priority Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.5 Creation of the Directors' Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Directors' Claim Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Directors' Claim Reserve in the Directors' Claim Reserve Account for the purpose of paying the Director/Officer Claims in accordance with this Plan and shall distribute any remaining balance in the Directors' Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.6 Creation of the Post-Filing Claim Reserve

- (a) On the Implementation Date, the Payless Canada Entities shall deliver to the Monitor by way of wire transfer (in accordance with the wire transfer instructions provided by the Monitor at least five (5) Business Days prior to the Implementation Date), Cash in the amount necessary to establish the Post-Filing Claim Reserve.
- (b) In accordance with section 7.3 of this Plan, the Monitor shall hold the Post-Filing Claim Reserve in the Post-Filing Claim Reserve Account for the purpose of paying the Post-Filing Claims in accordance with this Plan and shall distribute any remaining balance in the Post-Filing Claim Reserve Account to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.

5.7 Excess Reserve Funds

- (a) To the extent that the Payless Canada Entities or the Monitor determine, with the consent of the other party, that there are funds in any Reserve sufficiently in excess of the amount required to fund payments that may be required to be made from such Reserve, the Payless Canada Entities with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, may

transfer such excess funds to another Reserve. In the event of any dispute the parties may seek a further order of the Court.

- (b) To the extent that the Payless Canada Entities or the Monitor determine, with the consent of the other party, that there are insufficient funds in any Reserve to fund payments that may be required to be made from such Reserve, no excess amounts from any other Reserves will be distributed to the Payless Canada Entities without ensuring that sufficient funds are added to the applicable Reserve. In the event of any dispute the parties may seek a further order of the Court.
- (c) For the avoidance of doubt, no amounts held in any of the Reserves will be, or be deemed to be held in trust for any Claimant.

ARTICLE 6 PROVISIONS REGARDING DISTRIBUTIONS AND DISBURSEMENTS

6.1 Distributions and Disbursements Generally

- (a) All distributions and disbursements to be effected pursuant to this Plan shall be made pursuant to this Article 6 and shall occur in the manner set out below under the supervision of the Monitor.
- (b) Notwithstanding any other provisions of this Plan, no distributions or transfers of Cash shall be made by the Monitor with respect to all or any portion of a Disputed Claim unless and only to the extent that such Disputed Claim has become a Proven Claim or a Proven Priority Claim, as applicable.
- (c) Notwithstanding anything to the contrary herein, all distributions or other payments to be made pursuant to this Plan to General Unsecured Creditors or Landlords are conditional on the receipt of documentation in form and content satisfactory to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders (the "**Comfort Letter**") from the applicable Governmental Entity authorizing the Monitor to make the distributions, disbursements, or payments without any liability to any of the Payless Canada Entities, the Monitor, or each of their respective Directors, Officers, employees or agents in respect of the ITA, *Excise Tax Act*, and any other legislation pertaining to Taxes. In the event the Comfort Letter is not received by ~~December 31~~, 31, 2019, the Payless Canada Entities shall notify the Term Loan Agent and the Supporting Term Loan Lenders and may seek further directions from the Court on at least five (5) Business Days' notice to the Service List.

6.2 Distributions of Cash After Disputed General Unsecured Claims and Disputed Landlord Claims are Resolved

- (a) From and after the date of the resolution of all Disputed General Unsecured Claims and all Disputed Landlord Claims in accordance with the Claims Procedure Order and the Meetings Order (the "**Affected Creditor Distribution**

Date”), the Monitor shall, subject to section 6.1, distribute to such Affected Creditor, Cash in accordance with Article 4 herein, less any Withholding Obligations or statutory deductions required by Applicable Law. For the avoidance of doubt, the Monitor shall have no obligation to make distributions to Affected Creditors prior to the Affected Creditor Distribution Date.

(b) If the Receivership Order has been granted, on the Affected Creditor Distribution Date, all Creditors who are or were employees of the Payless Canada Entities and, to the best of the Monitor’s knowledge, not ineligible under section 6 of WEPPA to receive a payment under WEPPA, shall be deemed to have directed that their Employee Distributions be made to the Receiver, and the Receiver shall receive and deal with the Employee Distributions subject to and in accordance with the terms of the Receivership Order. For the avoidance of doubt, if the Receivership Order is granted no Employee Distributions shall be paid directly to employees by the Monitor or the Payless Canada Entities, however if the Receivership Order is not granted, such Employee Distributions will be made in the same manner as distributions to other General Unsecured Creditors.

6.3 Method of Payment

~~(a)~~—All distributions in Cash to Affected Creditors to be made by the Monitor under this Plan shall be made from the Affected Creditor Distribution Account by cheque sent by prepaid ordinary mail to the address for such Affected Creditor as recorded in the books and records of the Payless Canada Entities, as noted on the Notice of Dispute of Claim Statement or Proof of Claim filed by the Affected Creditors or as otherwise communicated to the Monitor not more than three (3) Business Days following the granting of the Sanction Order by such Affected Creditor, or an assignee in respect of such Affected Creditor’s Proven Claim; provided if the Receivership Order is granted, the Employee Distributions shall be made by transfer from the Affected Creditor Distribution Account to an account established and designated by the Receiver.

6.4 Undeliverable Distributions

- (a) If any distribution is returned as undeliverable or is not cashed (in each case, an “**Undeliverable Distribution**”), no further distributions to such Affected Creditor shall be made unless and until the Monitor is notified by such Affected Creditor of its current address at which time all such distributions shall be made to such Affected Creditor without interest.
- (b) All claims for undeliverable or un-cashed distributions in respect of Proven Claims shall be made on or before the date that is six (6) months after the Affected Creditor Distribution Date, after which date the Proven Claims of such Affected Creditor or successor or assign of such Affected Creditor with respect to such unclaimed or un-cashed distributions shall be forever discharged and forever barred, without any compensation therefor, notwithstanding any Applicable Law to the contrary, at which time any Cash held by the Monitor in

relation to such undeliverable or unclaimed distribution shall be added to the Administrative Reserve. Nothing in this Plan or Sanction Order shall require the Monitor or the Payless Canada Entities to attempt to locate the holder of any Proven Claim or Unaffected Claim.

6.5 Tax Matters

- (a) Any terms and conditions of any Affected Claims which purport to deal with the order of or grant of priority of payment of principal, interest, penalties or other amounts shall be deemed to be void and ineffective. All distributions made pursuant to this Plan shall be first in satisfaction of the portion of Affected Claims that are not subject to any Withholding Obligation.
- (b) Notwithstanding any provisions of this Plan, each Person that receives a distribution, disbursement or other payment pursuant to this Plan shall have sole and exclusive responsibility and liability for the satisfaction and payment of any Tax obligations imposed on such Person by any Taxing Authority on account of such distribution, disbursement or payment.
- (c) Any payor shall be entitled to deduct and withhold and remit from any distribution, payment or consideration otherwise payable to any Person pursuant to this Plan such amounts as are required, or are reasonably expected to be required, (a **"Withholding Obligation"**) to be deducted and withheld with respect to such payment under the ITA, or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of a Person until such Person has delivered to the Payless Canada Entities and the Monitor such documentation prescribed by Applicable Law or otherwise reasonably required by the Monitor as will enable the Monitor to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Taxing Authority.
- (d) All distributions made pursuant to this Plan shall be made as a payment of principal of the relevant Claim before any interest is paid on such Claim.
- (e) To the extent that amounts are withheld or deducted and paid over to the applicable Taxing Authority, such withheld or deducted amounts shall be treated for all purposes of this Plan as having been paid to such Person as the remainder of the payment in respect of which such withholding and deduction were made.

ARTICLE 7 IMPLEMENTATION

7.1 Authorizations

The adoption, execution, delivery, implementation and consummation of all matters contemplated under this Plan involving corporate or partnership action of the Payless Canada Entities will occur and be effective as of the Implementation Date, and will be authorized and approved under this Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, general partners, limited partners, directors or officers of any of the Payless Canada Entities. All necessary approvals to take actions shall be deemed to have been obtained from the Directors or the shareholders, general partners or limited partners of the Payless Canada Entities, as applicable, including the deemed passing by any class of shareholders, general partners or limited partners of any resolution or special resolution and no agreement between a shareholder, general partner or limited partner and another Person limiting in any way the right to vote shares or partnership interests held by such shareholder, general partner or limited partner with respect to any of the steps contemplated by this Plan shall be deemed to be effective and any such agreement shall have no force and effect.

7.2 Implementation Date Transactions

The Payless Canada Entities and the Monitor, as applicable, will take the steps set forth in the Plan Supplement (collectively, the “**Implementation Date Transactions**”), which shall be consummated and become effective in the order set out therein, and will take any additional actions as may be necessary to effect a restructuring of the Payless Canada Entities’ businesses or overall organizational structure to reflect and implement the provisions of this Plan in a tax efficient and orderly manner.

7.3 Post-Implementation Date Transactions

- (a) The Monitor, with the consent of the Payless Canada Entities and/or the Chief Restructuring Organization or upon further Court Order, on behalf of the Payless Canada Entities, shall pay (i) the Priority Claims pursuant to and in accordance with section 4.4 from the Priority Claim Reserve Account; (ii) any Administrative Reserve Costs from the Administrative Reserve Account; (iii) the Director/Officer Claims from the Directors’ Claim Reserve Account; (iv) any Post-Filing Claims from the Post-Filing Reserve Account; (v) distributions from the Landlord Pool in accordance with Article 6 hereof; and (vi) distributions from the General Unsecured Pool in accordance with Article 6 hereof, *provided, however*, that with respect to (iii) and (iv) above, such payments shall only be made after five (5) Business Days notice to the Term Loan Agent and the Supporting Term Loan Lenders and in the event of an objection in such period that cannot be resolved consensually, with an order of the Court.

- (b) The Monitor, with the consent of the Payless Canada Entities and/or the Chief Restructuring Organization and the Supporting Term Loan Lenders, or upon further Court Order on at least five (5) Business Days notice to the Service List, on behalf of the Payless Canada Entities, may transfer any unused portion of the Reserves to the Payless Canada Entities, which amounts will remain subject to the security interests of the Term Loan Agent.
- (c) Cassels shall continue to have primary carriage of, but shall work in consultation with the Monitor in respect of, the resolution of Claims including Claims to be paid from the Reserves and all negotiations with respect to the Comfort Letter after the Implementation Date.

ARTICLE 8 RELEASES

8.1 Plan Releases

At the Effective Time, for good and valuable consideration, including the distributions to be made pursuant to this Plan, and, if the Receivership Order is granted, the transfer to the Receiver of the Employee Distributions to be dealt with in accordance with the Receivership Order. every Creditor, Affected Creditor or other Person, on the Creditor's, Affected Creditor's or other Person's own behalf and on behalf of the Creditor's, Affected Creditor's or other Person's respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, hereby is deemed to and does fully, finally, irrevocably and unconditionally release and forever discharge each of the Payless Canada Entities, the Directors, the Officers and any alleged fiduciary (whether acting as a director, officer, or other responsible party), Cassels, Akin, S&K, FTI, the Monitor, the Chief Restructuring Organization, the Term Loan Agent, and each of the Term Loan Lenders (including each of the Supporting Term Loan Lenders) together with each of their respective current and former legal counsel, financial advisors, representatives, directors, officers, predecessors, affiliates, member companies, related companies, partners, shareholders, administrators, executors, employees, professional advisors (collectively, the "**Released Parties**" and individually, a "**Released Party**"), of and from any and all Claims, and, without limitation, any and all past, present and future claims, causes of action, debts, rights, interests, actions, rights of indemnity, liabilities, demands, duties, injuries, accounts, covenants, damages, expenses, fees (including solicitors' fees or liens), costs, compensation, or causes of action of whatsoever kind or nature whether foreseen or unforeseen, known or unknown, matured or unmatured, direct, indirect or derivative, asserted or unasserted, contingent or actual, liquidated or unliquidated, whether in tort or contract, whether statutory, at common law or in equity, based on, in connection with, arising out of, or in any way related to, in whole or in part, directly or indirectly, any act, inaction or omission, transaction, distribution, payment, dealing or other occurrence relating to or otherwise in connection with (a) the business and operations of the Payless Canada Entities existing or taking place on or prior to the Effective Time, (b) the property and assets of the

Payless Canada Entities existing or taking place on or prior to the Effective Time, (c) the Affected Claims, this Plan, the U.S. Proceedings or the CCAA Proceedings; (d) any contract that has been restructured, terminated, repudiated, disclaimed or resiliated in accordance with the CCAA, (e) the Implementation Date Transactions in respect of which the Released Parties had any role, whether in their capacity as Officers, Directors or in any other capacity, (f) liabilities of the Directors and Officers and any alleged fiduciary or other duty, including any and all Claims that may be made against the Directors or Officers where by law such Directors or Officers may be liable in their capacity as Directors or Officers, or (g) any Claim that has been barred or extinguished by the Claims Procedure Order (all collectively, the “Released Claims”); and at the Effective Time the Payless Canada Entities are deemed to and do fully, finally, irrevocably and unconditionally release and forever discharge every other Released Party of and from any and all Released Claims.

Notwithstanding the foregoing, nothing in this section 8.1 shall release or discharge:

- (a) the Payless Canada Entities and their respective assets, undertakings and properties from any Unaffected Claim that has not been paid in full under this Plan or the Plan Supplement to the extent of such non-payment;
- (b) a Released Party from its obligations under this Plan or the Plan Supplement;
- (c) a Released Party found by a court of competent jurisdiction by final determination on the merits to have committed fraud or wilful misconduct in relation to a Released Claim for which it is responsible at law; or
- (d) the Directors from any Claims which have been preserved in accordance with the Claims Procedure Order that cannot be compromised due to the provisions of section 5.1(2) of the CCAA.

8.2 Injunction

Subject to the exceptions stated in sub-paragraphs (a) through (d) of section 8.1 of this Plan, all Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, beneficiaries, financial advisors, legal counsel, other professionals, sureties, insurers, indemnitors, agents, dependents, heirs, executors, administrators, representatives, successors and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to the Affected Claims and the Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any of the Released Parties or their property;

- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suit or demand (including by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation) or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative, regulatory or other forum) against any Person who makes such a claim or might reasonably be expected to make such a claim in any manner or forum, against one or more of the Released Parties;
- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any action to interfere with the implementation or consummation of this Plan (including the Implementation Date Transactions);

and any such proceedings will be deemed to have no further effect against the Payless Canada Entities or any of their assets and will be released, discharged or vacated without cost to the Payless Canada Entities. All Persons shall cooperate with the Payless Canada Entities and the Monitor in lifting any lien or discontinuing any proceeding filed or commenced prior to the Effective Time, as the Payless Canada Entities or the Monitor may reasonably request. The Payless Canada Entities may apply to the Court to obtain a discharge or dismissal of any such proceedings if necessary without notice to any Person.

8.3 Timing of Releases and Injunctions

All releases and injunctions set forth in this Article 8 shall become effective on the Implementation Date.

8.4 Knowledge of Claims

Each Person to which section 8.1 hereof applies shall be deemed to have granted the releases set forth in section 8.1 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

ARTICLE 9
COURT SANCTION, CONDITIONS PRECEDENT AND IMPLEMENTATION

9.1 Application for Sanction Order

If this Plan is approved by the Required Majorities, the Payless Canada Entities shall apply for the Sanction Order on the date set out in the Meetings Order or such later date as the Court may set and, shall provide the Supporting Term Loan Lenders with drafts of the court materials at least three (3) Business Days prior to the date the Payless Canada Entities serve the materials upon the service list (or as soon as possible where it is not reasonably practicable to provide drafts three (3) Business Days in advance). [At such hearing, the Monitor will also request the Court grant the Receivership Order.](#)

9.2 Sanction Order

The Sanction Order shall be substantially in the form attached (without this Plan included as a schedule) as Schedule "B" hereto, with such amendments as the Payless Canada Entities, the Supporting Term Loan Lenders, and the Monitor may agree.

9.3 Conditions to the Implementation Date

The implementation of this Plan shall be conditional upon the fulfillment, satisfaction or waiver (to the extent permitted by section 9.4 hereof) of the following conditions:

- (a) this Plan shall have been approved by the Required Majorities;
- (b) the Court shall have granted the Sanction Order the operation and effect of which shall not have been stayed, reversed or amended and in the event of an appeal or application for leave to appeal, final determination shall have been made by the appellate court;
- (c) the Payless Canada Entities shall have funded:
 - (i) the Administrative Reserve;
 - (ii) the Priority Claim Reserve;
 - (iii) the Directors' Claim Reserve;
 - (iv) the Post-Filing Claim Reserve;
 - (v) the General Unsecured Pool, to be held in the Affected Creditor Distribution Account; and
 - (vi) the Landlord Pool, to be held in the Affected Creditor Distribution Account;
- (d) the U.S. Proceedings with respect to the Payless Canada Entities shall have been dismissed;
- (e) the U.S. Plan shall have become effective;

- (f) the Monitor shall have received written confirmation from Supporting Term Loan Lenders that the Supporting Term Loan Lenders are satisfied with (i) the treatment of the Post-Filing Intercompany Loans, (ii) the form and substance of the Plan Supplement, and (iii) all variations and modifications of, and amendments and supplements to the Plan, the Plan Supplement and the Sanction Order, to and including the Implementation Date;
- (g) the Implementation Date shall have occurred no later than the Outside Date.

9.4 Waiver of Conditions

The Payless Canada Entities, with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, may at any time and from time to time waive the fulfillment or satisfaction, in whole or in part, of the conditions set out herein, to the extent and on such terms as such parties may agree. Notwithstanding anything to the contrary in this Plan or in any order of the Court, the Payless Canada Entities may not waive satisfaction of the conditions set out in subsection 9.3(f) hereof, which condition is for the exclusive benefit of, and may only be waived by, the Supporting Term Loan Lenders. Notwithstanding anything to the contrary in this Plan or in any order of the Court, the Payless Canada Entities may not waive satisfaction of the conditions set out in subsection 9.3(e) without the consent of the Supporting Term Loan Lenders.

9.5 Implementation Provisions

If the conditions contained in section 9.3 are not satisfied or waived (to the extent permitted under section 9.4) by the Outside Date, unless the Payless Canada Entities, in consultation with the Monitor and in consultation with the Supporting Term Loan Lenders, agree in writing to extend such period, this Plan and the Sanction Order shall cease to have any further force or effect and will not be binding on any Person.

9.6 Monitor's Certificate of Plan Implementation

Upon written notice from the Payless Canada Entities (or counsel on their behalf) to the Monitor, the Term Loan Agent and the Supporting Term Loan Lenders that the conditions to Plan implementation set out in section 9.3, have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, and file with the Court, a certificate (the "**Monitor's Certificate**") which states that all conditions precedent set out in section 9.3 have been satisfied or waived and that the Implementation Date (which shall be set out on the certificate) has occurred.

ARTICLE 10 GENERAL

10.1 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

10.2 Preferential Transactions

Sections 95 to 101 of the BIA and any applicable law relating to preferences, settlements, fraudulent conveyances or transfers at undervalue shall not apply in any respect, including, without limitation, to any dealings prior to the Filing Date, to this Plan, to any payments or distributions made in connection with the restructuring and recapitalization of the Payless Canada Entities, whether made before or after the Filing Date, or to any and all transactions contemplated by and to be implemented pursuant to this Plan.

10.3 Claims Bar Date

Nothing in this Plan extends or shall be interpreted as extending or amending the Claims Bar Date, or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order.

10.4 Non-Consummation

If the Implementation Date does not occur on or before the Outside Date (as the same may be extended in accordance with the terms hereof), or if this Plan is otherwise withdrawn in accordance with its terms: (a) this Plan shall be null and void in all respects, and (b) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Payless Canada Entities, their respective successors or any other Person; (ii) prejudice in any manner the rights of the Payless Canada Entities, their respective successors or any other Person in any further proceedings involving the Payless Canada Entities or their respective successors; or (iii) constitute an admission of any sort by the Payless Canada Entities, their respective successors or any other Person.

10.5 Modification of Plan

- (a) The Payless Canada Entities may propose a variation or modification of, or amendment or supplement to this Plan at or prior to the Creditors' Meetings, in consultation with the Monitor, provided that notice of such variation, modification, amendment or supplement is given to all Creditors entitled to vote and present in person at the applicable Creditors' Meetings prior to the vote being taken. Any variation, amendment, modification or supplement at a Creditors' Meetings shall be posted promptly on the Monitor's Website, served by email to the Service List and filed with the Court as soon as practicable following the applicable Creditors' Meetings and in any event prior to the Court hearing the Sanction Motion.
- (b) After the Creditors' Meetings (and both prior to and subsequent to the obtaining of any Sanction Order), the Payless Canada Entities may at any time and from time to time, amend, restate, vary, modify or supplement this Plan: (a) pursuant to an Order of the Court, or (b) without further Court Order, where such amendment to this Plan concerns a matter which, in the opinion of the Payless Canada Entities and the Monitor, is of an administrative nature required to better

give effect to the implementation of this Plan or the Sanction Order or to cure any errors, omissions or ambiguities, and in either circumstance is not materially adverse to the financial or economic interests of the Affected Creditors. The Monitor shall forthwith post on the Monitor's Website any such amendment to this Plan, with notice of such posting forthwith provided to the Service List.

10.6 Severability of Plan Provisions

If, prior to the Effective Time, any term or provision of this Plan is held by the Court to be invalid, void or unenforceable, at the request of the Payless Canada Entities with the consent of the Supporting Term Loan Lenders, the Court shall have the power to either (a) sever such term or provision from the balance of this Plan and provide the Payless Canada Entities with the option to proceed with the implementation of the balance of this Plan as of and with effect from the Effective Time, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, and provided that this Plan is implemented, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

10.7 Preservation of Rights of Action

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with this Plan, following the Implementation Date, the Payless Canada Entities will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Payless Canada Entities may hold against any Person or entity without further approval of the Court.

10.8 Responsibilities of Monitor

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Payless Canada Entities and not in its personal or corporate capacity, and shall have no liability in connection with the implementation of this Plan, including without limitation with respect to making distributions pursuant to and in accordance with this Plan, the establishment and administration of the General Unsecured Pool, the Landlord Pool, the Affected Creditor Distribution Account, the Administrative Reserve, the Priority Claim Reserve, the Directors' Claim Reserve and the Post-Filing Claim Reserve, (and in each case, any adjustments with respect to same) or the timing or sequence of this Plan's transaction steps, in each case save and except for gross negligence and wilful misconduct. FTI will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Payless Canada Entities to observe, perform or comply with any of its obligations under this Plan. The Monitor shall not be responsible or liable whatsoever for

any obligations of the Payless Canada Entities. The Monitor shall at all times have the powers and protections granted to it by this Plan, the CCAA, the Initial Order, the Meetings Order, and any other Order made in the CCAA Proceedings.

10.9 Different Capacities

Persons who are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless expressly agreed by a Person in writing or unless its Claims overlap or are otherwise duplicative.

10.10 Notices

Any notice or other communication to be delivered hereunder must be in writing and refer to this Plan and may, as hereinafter provided, be made or given by personal delivery, ordinary mail, email or by facsimile addressed to each of the respective parties as follows:

- (a) The Payless Canada Entities:

c/o Ankura Consulting Group, LLC
485 Lexington Avenue, 10th Floor
New York, NY United States 10017

Attention: Adrian Frankum
Email: adrian.frankum@ankura.com

with a required copy (which shall not be deemed notice) to:

Cassels Brock & Blackwell LLP
40 King Street West
2100 Scotia Plaza
Toronto, Ontario M5H 3C2

Attention: Ryan Jacobs and Jane O. Dietrich
Email: rjacobs@casselsbrock.com
jdietrich@casselsbrock.com

- (b) The Monitor:

FTI Consulting Canada Inc.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attention: Greg Watson, Paul Bishop and Jim Robinson

Email: paylesscanada@fticonsulting.com

And to:

Bennett Jones LLP
100 King Street West, Suite 3400
Toronto, ON M5X 1A4

Attention: Sean Zweig and Michael S. Shakra
Email: zweigs@bennettjones.com
shakram@bennettjones.com

(c) The Supporting Term Loan Lenders:

c/o Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
P.O. Box 20
Toronto, Ontario M5H 2T6
Attention: Stuart Brotman and Dylan Chochla
Email: sbrotman@fasken.com
dchochla@fasken.com

(d) The Term Loan Agent

c/o McCarthy Tetrault LLP
Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto, Ontario M5K 1E6
Attention: Trevor Courtis
Emails: tcourtis@mccarthy.ca

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. (Toronto time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

10.11 Reliance on Consent

For the purposes of this Plan, where a matter (i) shall have been agreed, waived, consented to or approved by the Supporting Term Loan Lenders, (ii) requires consultation with or notice to the Supporting Term Loan Lenders, or (iii) must be

satisfactory or acceptable to the Supporting Term Loan Lenders, any Person shall be entitled to rely on written confirmation from Fasken, as counsel to the Supporting Term Loan Lenders, that the Supporting Term Loan Lenders have agreed, waived, consented to or approved a particular matter or, as applicable, may consult with or provide notice to Fasken to satisfy such requirement.

10.12 Paramountcy

- (a) From and after the Effective Time, any conflict between (i) this Plan and (ii) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between any Person and the Payless Canada Entities as at the Implementation Date, will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which shall take precedence and priority.
- (b) From and after the granting of the Sanction Order, any conflict between (i) this Plan and (ii) the Sanction Order, will be deemed to be governed by the terms, conditions and provisions of the Sanction Order, which shall take precedence and priority.

10.13 Further Assurances

Notwithstanding that the transactions and events set out herein will occur and be deemed to occur in the order set out in this Plan without any further act or formality, each of the Persons named or referred to in, or subject to, this Plan will make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein.

Dated this ~~17~~16th day of ~~September~~October, 2019.

SCHEDULE "A"

Definitions

"Administration Charge" has the meaning given to that term in the Initial Order;

"Administrative Reserve" means a Cash reserve in the amount set forth in the Plan Supplement, to be deposited by the Payless Canada Entities into the Administrative Reserve Account for the purpose of paying the Administrative Reserve Costs, which amounts will be subject to the Administration Charge, from and after the Implementation Date;

"Administrative Reserve Account" means a segregated interest-bearing trust account established by the Monitor to hold the Administrative Reserve;

"Administrative Reserve Costs" means costs incurred and payments to be made on or after the Implementation Date (including costs incurred prior to the Implementation Date which remain outstanding as of the Implementation Date) in respect of: (a) the Payless Canada Entities' legal fees and disbursements; (b) the Monitor's fees and disbursements (including of its legal counsel and other consultants and advisors) (in the case of (a) and (b), subject to the provisions of the Initial Order); and (c) with the consent of the Monitor and in consultation with the Supporting Term Loan Lenders, any other amounts the Payless Canada Entities may determine in respect of any other determinable contingency in connection with the Payless Canada Entities, the CCAA Proceedings or this Plan;

"Affected Claims" means all Claims against any of the Payless Canada Entities that are not Unaffected Claims;

"Affected Creditor" means the holder of an Affected Claim in respect of and to the extent of such Affected Claim;

"Affected Creditor Distribution" means Cash in the amount of \$1,183,500;

~~**"Affected Creditor Distribution Date"** has the meaning given to that term in section 6.2 hereof;~~

"Affected Creditor Distribution Account" means a segregated interest-bearing trust account established by the Monitor to be funded by the Payless Canada Entities in the amount of the Affected Creditor Distribution for the purpose of funding the Affected Creditor Distribution;

~~**"Affected Creditor Distribution Date"** has the meaning given to that term in section 6.2 hereof;~~

"Akin" means Akin Gump Strauss Hauer & Feld LLP, counsel to the U.S. Debtors and the Payless Canada Entities in the U.S. Proceedings;

"Applicable Law" means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter, including, where appropriate, any interpretation of the Law (or any part thereof) by any Person, court or tribunal having jurisdiction over it, or charged with its administration or interpretation;

“**Applicants**” has the meaning ascribed to that term in the Recitals;

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3;

“**Business Day**” means any day, other than a Saturday, or a Sunday or a statutory or civic holiday, on which banks are generally open for business in Toronto, Ontario;

“**Cash**” means cash, certificates of deposit, bank deposits, and other cash equivalents;

“**Cassels**” means Cassels Brock & Blackwell LLP, counsel to the Payless Canada Entities and the Chief Restructuring Organization;

“**CCAA**” has the meaning ascribed to that term in the Recitals;

“**CCAA Proceedings**” means the proceedings commenced by the Applicants under the CCAA as contemplated by the Initial Order;

“**Charges**” has the meaning ascribed to that term in the Initial Order;

“**Chief Restructuring Organization**” means Ankura Consulting Group, LLC in its capacity as Chief Restructuring Organization of the Payless Canada Entities;

“**Claim**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claim Statement**” has the meaning ascribed to that term in the Claims Procedure Order, and includes any amended Claim Statement;

“**Claimant**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claims Bar Date**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Claims Procedure Order**” means the Order made in these proceedings on April 24, 2019 entitled “Claims Procedure Order”;

~~“**Claim Statement**” has the meaning ascribed to that term in the Claims Procedure Order, and includes any amended Claim Statement;~~

“**Comfort Letter**” has the meaning ascribed thereto in Article 6 hereof;

“**Court**” has the meaning ascribed to that term in the Recitals;

“**Creditor**” means any Person having a Claim and includes without limitation the transferee or assignee of a Claim transferred and recognized as a Creditor in accordance with the Claims Procedure Order or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;

“**Creditors’ Meetings**” means the meetings of the General Unsecured Creditors and of the Landlords called for the purpose of considering and voting in respect of this Plan as described in the Meetings Order;

“**Crown**” means Her Majesty in right of Canada or a province of Canada;

“**Crown Priority Claim**” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;
- (b) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the Canada Pension Plan, an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, or a premium under Part VII.1 of the *Employment Insurance Act* and of any related interest, penalties or other amounts;
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
 - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“**Director**” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or de facto director of any of the Payless Canada Entities;

“**Directors’ Charge**” has the meaning ascribed to it in the Initial Order;

“**Directors’ Claim Reserve**” means a Cash reserve, equal to the amount of the Directors’ Charge or such lesser amount as may be agreed to by the Payless Canada Entities, the beneficiaries of the Directors’ Charge, the Monitor and the Supporting Term Loan Lenders, to be deposited by the Payless Canada Entities into the Directors’ Claim Reserve Account for the purposes of paying any finally determined valid claims secured by the Directors’ Charge;

“**Directors’ Claim Reserve Account**” means a segregated interest-bearing trust account established by the Monitor to hold the Directors’ Claim Reserve;

“**Disputed Claim**” any Claim that has not been finally determined in accordance with the Claims Procedure Order, the Meetings Order, this Plan or the CCAA;

“**Disputed General Unsecured Claim**” means a General Unsecured Claim which has not been allowed, in whole or in part, as a Proven General Unsecured Claim, which is validly disputed for

distribution purposes in accordance with the Claims Procedure Order or the Meetings Order and which remains subject to adjudication for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order or this Plan;

“Disputed Landlord Claim” means a Landlord claim which has not been allowed, in whole or in part, as a Proven Landlord Claim, which is validly disputed for distribution purposes in accordance with the Claims Procedure Order and which remains subject to adjudication for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order or this Plan;

“Disputed Voting Claim” means a disputed Landlord Claim or a Disputed General Unsecured Claim;

“Effective Time” means ~~12:01 a.m. on the time set out on Monitor’s certificate confirming the occurrence of~~ the Implementation Date ~~(or such other time as the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders may agree as~~ further described in the Sanction Order);

“Eligible Voting Creditors” means General Unsecured Creditors and Landlords, holding Voting Claims or Disputed Voting Claims;

“Employee Distribution” means any distribution under this Plan to an employee or former employee of any of the Payless Canada Entities who is, to the best of the Monitor’s knowledge, not ineligible under section 6 of WEPPA to receive a payment under WEPPA, in his or her capacity as an employee or former employee, on account of such employee or former employee’s General Unsecured Claim;

“Employee Priority Claims” means, with respect to Creditors who are or were employees of any of the Payless Canada Entities, the following claims:

- (a) Claims of the Payless Canada Entities’ employees and former employees equal to the amounts that such employees and former employees would have been qualified to receive under paragraph 136(l)(d) of the *Bankruptcy and Insolvency Act* (Canada) if the Payless Canada Entities had become bankrupt on the Filing Date; and
- (b) Claims of the Payless Canada Entities’ employees and former employees for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the date of the Sanction Order, together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Payless Canada Entities’ business during the same period.

“Equity Claim” has the meaning set forth in section 2(1) of the CCAA;

“Excise Tax Act” means the *Excise Tax Act*, R.S.C. 1985, c.E-15, as amended and any regulations thereunder;

“Fasken” Fasken Martineau DuMoulin LLP, counsel to the Supporting Term Loan Lenders;

“Filing Date” means February 19, 2019;

“FTI” means FTI Consulting Canada Inc. and its affiliates;

“General Unsecured Claim” means any Affected Claim other than a Landlord Claim or an Intercompany Claim;

“General Unsecured Creditor” means the holder of a General Unsecured Claim in respect of and to the extent of such General Unsecured Claim;

“General Unsecured Pool” means Cash in the amount of the Affected Creditor Distribution minus the amount required to fund the Landlord Pool;

“General Unsecured Pro Rata Share” means the proportionate share of a Proven General Unsecured Claim to the total of all Proven General Unsecured Claims after final determination of all Disputed General Unsecured Claims in accordance with the Claims Procedure Order, the Meetings Order and this Plan;

“General Unsecured Required Majority” means a majority in number of General Unsecured Creditors representing at least two thirds in value of the Voting Claims of General Unsecured Creditors who actually vote (in person or by proxy) at the Creditors’ Meeting;

“Governmental Entity” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

“Implementation Date” means the Business Day on which this Plan becomes effective, which shall be the day indicated on the certificate which the Monitor has filed with the Court contemplated in section 9.6 hereof;

“Implementation Date Transactions” has the meaning ascribed to that term in section 7.2;

“Initial Order” has the meaning ascribed to that term in the Recitals;

“Intercompany Claim” means any Claim held by a Payless Canada Entity against another Payless Canada Entity or an affiliate of a Payless Canada Entity (including, for the avoidance of doubt, a U.S. Debtor) or any Claim held by an affiliate of a Payless Canada Entity (including, for the avoidance of doubt, a U.S. Debtor) against a Payless Canada Entity, provided however, that the Post-Filing Intercompany Loans shall not be an Intercompany Claim;

“ITA” means the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.), as amended and any regulations thereunder;

“**Landlord**” means any Person(s) in its/their capacity as lessor was a party under a Lease;

“**Landlord Claim**” means a Claim of a Landlord;

“**Landlord Claim Statement**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Landlord Pool**” means Cash in the amount required to pay the distributions provided for in section 4.2, provided, however, that for the purposes of funding the Landlord Pool, if the Payless Canada Entities have disputed any Landlord Claim, \$3,840.00 shall be reserved for such claim, and for greater clarity, if any portion of the Landlord Pool is not required to pay Proven Landlord Claims, such amounts shall be included in the General Unsecured Pool;

“**Landlord Required Majority**” means a majority in number of Landlord representing at least two thirds in value of the Voting Claims of Landlords who actually vote (in person or by proxy) at the Creditors’ Meeting;

“**Law**” means any law, statute, order, decree, consent decree, judgment, rule regulation, ordinance or other pronouncement having the effect of law whether in Canada or any other country, or any domestic or foreign state, county, province, city or other political subdivision or of any Governmental Entity;

“**Lease**” a real property lease under which any one of the Payless Canada Entities was a lessee;

“**Meetings Order**” means the Order of the Court dated September 17, 2019 in connection with the CCAA Proceedings, which Meetings Order shall be acceptable to the Supporting Term Loan Lenders;

“**Monitor**” means FTI, in its capacity as court-appointed Monitor of the Payless Canada Entities;

“**Monitor’s Certificate**” has the meaning ascribed to that term in section 9.6 hereof;

“**Monitor’s Website**” means <http://cfcanada.fticonsulting.com/paylesscanada/>;

“**Notice of Dispute of Claim Statement**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Officer**” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Payless Canada Entities;

“**Order**” means any order of the Court in the CCAA Proceedings;

“**Outside Date**” means December 31, 2019 (or such other date as the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders may agree);

“**Payless Canada Entities**” has the meaning ascribed to that term in the Recitals;

“**Person**” is to be broadly interpreted and includes any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated

organization, joint venture, Governmental Entity or any agency, officer or instrumentality thereof or any other entity, wherever situate or domiciled, and whether or not having legal status;

“**Plan**” means this First Amended and Restated Plan of Compromise and Arrangement, including the Plan Supplement and any amendments, restatements, modifications or supplements hereto made from time to time in accordance with the terms hereof or made at the direction of the Court in the Sanction Order or otherwise;

“**Plan Supplement**” means the Plan Supplement to be filed with the Court, as defined and described in the Meetings Order, and for which greater certainty shall include, among other things, the quantum and mechanics for distributions in respect of the Term Loan Claims outside of the Plan;

“**Post-Filing Claim**” means any claims against any of the Payless Canada Entities that arose from the provision of authorized goods and services provided or otherwise incurred on or after the Filing Date, but shall not include a Restructuring Period Claim;

~~“**Post-Filing Intercompany Loans**” means the post-petition loans from Payless ShoeSource Canada LP to Payless Finance, Inc., which loans are reflected on the books and records of the U.S. Debtors and the Payless Canada Entities and bear interest at a rate of 6%.~~ “**Post-Filing Claim Reserve**” means a Cash reserve, in the amount of set forth in the Plan Supplement, to be deposited by the Payless Canada Entities into the Post-Filing Claim Reserve Account for the purpose of paying the Post-Filing Claims;

“**Post-Filing Claim Reserve Account**” means a segregated interest-bearing trust account established by the Monitor to hold the Post-Filing Claim Reserve;

“**Post-Filing Intercompany Loans**” means the post-petition loans from Payless ShoeSource Canada LP to Payless Finance, Inc., which loans are reflected on the books and records of the U.S. Debtors and the Payless Canada Entities and bear interest at a rate of 6%;

“**Priority Claim**” means a Crown Priority Claim or an Employee Priority Claim;

“**Priority Claim Reserve**” means a Cash reserve, equal to the amount of the Priority Claims, to be deposited by the Payless Canada Entities into the Priority Claim Reserve Account for the purpose of paying the Priority Claims, which Priority Claim Reserve shall not exceed the amount set forth in the Plan Supplement;

“**Priority Claim Reserve Account**” means a segregated interest-bearing trust account established by the Monitor to hold the Priority Claim Reserve;

“**Proof of Claim**” has the meaning ascribed to that term in the Claims Procedure Order;

“**Proven Claim**” means a Proven General Unsecured Claim or a Proven Landlord Claim, as applicable;

“Proven General Unsecured Claim” means the amount of the General Unsecured Claim of a General Unsecured Creditor as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA;

“Proven Landlord Claim” means the amount of the Landlord Claim in respect of Lease as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA;

“Proven Landlord Creditor” means a holder of a Proven Landlord Claim;

“Proven Priority Claim” means a Priority Claim as finally accepted and determined for distribution purposes in accordance with the Claims Procedure Order, the Meetings Order, this Plan and the CCAA

“Receiver” means FTI in its capacity as receiver, appointed pursuant to the terms of the Receivership Order;

“Receivership Order” means an order acceptable in form and substance to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders, and which shall be substantially in the form attached as Schedule “C” hereto;

“Released Claims” means the matters that are subject to release and discharge pursuant to section 8.1 hereof;

“Released Parties” has the meaning ascribed to that term in section 8.1 hereof;

“Released Party” means each of the Released Parties;

“Required Majorities” means the Landlord Required Majority and the General Unsecured Required Majority;

“Reserves” means the Administrative Reserve, the Directors’ Claim Reserve, the Priority Claim Reserve and the Post-Filing Claim Reserve;

“Restructuring Period Claim” shall have the meaning set forth in the Claims Procedure Order;

“S&K” means Seward & Kissell LLP, counsel to the U.S. Debtors, acting at the direction of the special committee, in the U.S. Proceedings;

“Sanction Motion” means the Payless Canada Entities’ motion for an order sanctioning this Plan;

“Sanction Order” means an order acceptable in form and substance to the Payless Canada Entities, the Monitor and the Supporting Term Loan Lenders, and which shall be substantially in the form attached as Schedule “B” hereto;

“Section 5.1(2) Director/Officer Claims” means any Director/Officer Claims that may not be compromised pursuant to section 5.1(2) of the CCAA;

“Service List” means the service list maintained by the Monitor in respect of these CCAA Proceedings;

“Supporting Term Loan Lenders” means a majority of the Term Loan Lenders represented by Fasken;

“Tax” or **“Taxes”** means any and all taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, Quebec and other government pension plan premiums or contributions;

“Taxing Authority” means any of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, any municipality of Canada, the Canada Revenue Agency, the Canada Border Services Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada and any political subdivision thereof and any Canadian or foreign government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power;

“Term Loan Agent” means Cortland Products Corp.;

“Term Loan Claims” means all Claims of the Term Loan Lenders under or in respect of the Term Loan Credit Facility against the Payless Canada Entities in an aggregate amount of USD\$277.2 million as of the Filing Date, or any of them, or in respect of which the Term Loan Agent holds a security interest in any assets, undertakings or properties of any Payless Canada Entity;

“Term Loan Credit Facility” means that certain Term Loan and Guarantee Agreement, dated as of August 10, 2017, by and among WBG – PSS Holdings LLC, Payless Inc., Payless Finance, Inc., Payless ShoeSource, Inc. and Payless ShoeSource Distribution, Inc., collectively, as borrowers, the guarantors party thereto, the Term Loan Lenders, and the Term Loan Agent, as administrative agent and collateral agent, as amended by amendment no. 1 dated October 26, 2017, as further amended by amendment no. 2 dated December 29, 2017 and amendment no. 3 dated June 19, 2018, and as the same may be amended from time to time;

“Term Loan Lenders” means the lenders from time to time party to the Term Loan Credit Facility;

“U.S. Debtors” means Payless Holdings LLC and its affiliated debtors and debtors in possession who have proposed the U.S. Plan in the U.S. Proceedings;

“U.S. Plan” means the joint plan of reorganization proposed by the U.S. Debtors;

“U.S. Proceedings” means the proceedings under chapter 11 of the United States Bankruptcy Code that are jointly administered under case no. 19-40883 in the United States Bankruptcy Court for the Eastern District of Missouri;

“Unaffected Claim” means

- (a) any Claims secured by any of the Charges;
- (b) any Claims that cannot be compromised pursuant to subsection 19(2) of the CCAA;
- (c) any Term Loan Claims;
- (d) any Priority Claims;
- (e) any Post-Filing Claims;
- (f) any Equity Claims, except to the extent set out in the Plan Supplement; and
- (g) any Claim entitled to the benefit of any applicable insurance policy, excluding any such Claim or portion thereof that is directly recoverable as against any of the Payless Canada Entities;

“Unaffected Creditor” means a Person who has an Unaffected Claim, but only in respect of and to the extent of such Unaffected Claim;

“Undeliverable Distribution” has the meaning given to that term in section 6.4;

“Voting Claim” means the amount of the General Unsecured Claim of a General Unsecured Creditors or the amount of a Landlord Claim of a Landlord against the Payless Canada Entities as finally accepted and determined for the purposes of voting at the Creditors’ Meeting, in accordance with the provisions of the Meetings Order and the CCAA;

“WEPPA” means the [Wage Earner Protection Program Act, S.C. 2005, c. 47, s. 1, as amended;](#)
and

“Withholding Obligation” has the meaning set forth in section 6.5.

SCHEDULE "B"
FORM OF SANCTION ORDER

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE ● [MR](#)
JUSTICE ● [McEWEN](#)

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)
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TUESDAY, THE 29th [TH](#)
DAY OF OCTOBER, 2019

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "Applicants")

**ORDER
(Plan Sanction)**

THIS MOTION made by Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc. (the "**Applicants**", and with Payless ShoeSource Canada LP, the "**Payless Canada Entities**") for an Order (the "**Sanction Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") *inter alia* (a) approving and sanctioning the [First Amended and Restated](#) Plan of Compromise and Arrangement of the Payless Canada Entities dated ~~September 17,~~[October ●, 2019](#) (the "**Plan**"), a copy of which (including the Plan Supplement [dated October ●, 2019](#)) is attached hereto as **Schedule "A"**, and (b) approving the ~~Sixth~~[supplement to the Fifth](#) Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "**Monitor**"), ~~dated October ●, 2019 (the "Sixth~~ [dated September 17, 2019 \(the "Supplemental Report"\), the Sixth Report of the Monitor, dated October ●, 2019 \(the](#)

[“Sixth Report”](#)) and the [Seventh Report of the Monitor, dated October 1, 2019](#) (the “[Seventh Report](#)”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Affidavit of [Stephen Marotta](#) sworn October [1](#), 2019 including the exhibits thereto, [the Supplemental Report](#), the Sixth Report, the ~~Supplement to the Fifth Report of the Monitor dated 1, 2019~~ (the “[Supplemental Report](#)”); [Seventh Report](#), the affidavit of Taschina Ashmeade sworn October 1, 2019, and upon hearing the submissions of counsel for the Payless Canada Entities, the Supporting Term Loan Lenders, and the Monitor, and no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn October 1, 2019;

DEFINED TERMS

1. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall be as defined in the Meetings Order ~~made~~[granted](#) in these proceedings (the “**CCAA Proceedings**”) by Justice McEwen on September ~~17~~,[19](#), 2019 (the “**Meetings Order**”) or the Plan, as applicable.

SERVICE, NOTICE AND MEETINGS

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record, [the Sixth Report](#) and the ~~Sixth~~[Seventh](#) Report be and is hereby validated such that this Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

3. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient service, delivery and notice to all Affected Creditors of the Information Package, [the Plan Supplement, the amendments to the Plan, the Sixth Report and the Seventh Report](#), and that the Creditors’ Meetings were duly, called, convened, held and conducted all in conformity with the CCAA, the Meetings Order and all other Orders of this Court in the CCAA Proceedings (collectively, the “**CCAA Orders**”).

SANCTION OF THE PLAN

4. **THIS COURT ORDERS AND DECLARES** that:

- (a) Pursuant to the Meetings Order, the relevant classes of creditors of the Payless Canada Entities for the purposes of voting to approve the Plan are the General Unsecured Creditors and the Landlords;
- (b) the Plan has been approved by Required Majorities, all in conformity with the CCAA and the terms of the CCAA Orders;
- (c) the Payless Canada Entities have acted, and are acting, in good faith and with due diligence, and have complied with the provisions of the CCAA and the CCAA Orders in all respects;
- (d) the Court is satisfied that the Payless Canada Entities have not done or purported to do anything that is not authorized by the CCAA; and
- (e) the Plan, all terms and conditions thereof, and the matters and the transactions contemplated thereby, are fair and reasonable.

5. **THIS COURT ORDERS** that the Plan and the Plan Supplement are hereby sanctioned and approved pursuant to section 6 of the CCAA.

PLAN IMPLEMENTATION

6. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, transactions, arrangements, and releases effected thereby (including, without limitation, the [events, transactions and](#) steps set out in the Plan Supplement) are hereby approved, shall be deemed to be implemented and shall be binding and effective as of the Effective Time in accordance with the terms of the Plan [and the Plan Supplement](#) or at such other time, times or manner as may be set forth in the Plan [or the Plan Supplement](#) in the sequence provided therein, and shall enure to the benefit of and be binding and effective upon the Payless Canada Entities, the Monitor, the Directors, the Officers, all Affected Creditors, the Released Parties, and all other Persons and parties named or referred to in, affected by, or subject to the Plan as provided for in the Plan, the Plan Supplement or this Sanction Order.

7. **THIS COURT ORDERS** that each of the Payless Canada Entities, the Directors, the Officers, and the Monitor, as applicable, is authorized and directed to take all steps and actions

and to do all things, necessary or appropriate, to implement the Plan (including the Plan Supplement) in accordance with its terms and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, disbursements, payments, deliveries, allocations, instruments and agreements contemplated by, and subject to the terms and conditions of, the Plan and the Plan Supplement, and all such steps and actions are hereby authorized, ratified and approved. None of the Payless Canada Entities, the Directors, the Officers, nor the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan, the Plan Supplement, and this Sanction Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of such parties.

8. **THIS COURT ORDERS** that upon delivery of written notice from the Payless Canada Entities (or counsel on their behalf) to the Monitor, the Term Loan Agent and the Supporting Term Loan Lenders that the conditions to Plan implementation set out in the Plan have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, and file with the Court, a certificate substantially in the form attached hereto as **Schedule “B”** (the “**Monitor’s Certificate**”) which states that all conditions precedent to Plan ~~Implementation~~implementation set out in the Plan have been satisfied or waived and that the Implementation Date and Effective Time (which both shall be set out on the certificate) ~~has~~have occurred and that the Plan, the Plan Supplement and the provisions of the Sanction Order which come into effect on the Implementation Date are effective in accordance with their respective terms. Following the delivery of the Monitor’s Certificate to the Payless Canada Entities, the Monitor shall file the Monitor’s Certificate with the Court, and shall post a copy of same, once filed, on the Monitor’s Website and provide a copy to the Service List. Upon delivery of the Monitor’s Certificate to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lenders, all applicable parties shall take such steps as are required to implement the steps set out in the Plan Supplement.

COMPROMISE OF CLAIMS AND EFFECT OF PLAN

9. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Plan and the Plan Supplement, at the Effective Time, all existing Claims of Affected Creditors against the Payless Canada Entities shall be fully, finally, irrevocably and forever compromised,

released, discharged, cancelled, extinguished and barred and all proceedings with respect to, in connection with or relating to such Claims shall permanently be stayed against the Released Parties, subject only to (i) the right of Affected Creditors to receive the distributions pursuant to the Plan and this Sanction Order in respect of their Claims; and (ii) the right of Affected Creditors who are or were employees of the Payless Canada Entities to make application for payment in respect of eligible wages (as defined in WEPPA) under WEPPA, each in the manner and to the extent provided for in the Plan.

10. **THIS COURT ORDERS** that the determination of Proven Claims in accordance with the Claims Procedure Order, the Meetings Order, and Plan shall be final and binding on the Payless Canada Entities and all Affected Creditors.

11. **THIS COURT ORDERS** that an Affected Creditor holding a Disputed Claim shall not be entitled to receive a distribution under the Plan in respect of any portion thereof unless and until such Disputed Claim becomes a Proven Claim in accordance with the Claims Procedure Order, the Meetings Order, and the Plan. The Monitor shall have no obligation to make distributions to Affected Creditors prior to the Affected Creditor Distribution Date.

12. **THIS COURT ORDERS** that nothing in the Plan extends to or shall be interpreted as extending or amending the Claims Bar Date or the Restructuring Period Claims Bar Date or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Order. Any Affected Claim or Director/Officer Claim for which a Claim Statement or Amended Claim Statement, as applicable, was not sent and a Proof of Claim or Director/Officer Proof of Claim has not been filed in accordance with the Claims Procedure Order, whether or not the holder of such Affected Claim or Director/Officer Claim has received personal notification of the claims process established by the Claims Procedure Order, have been, shall be and are hereby forever barred, extinguished and released with prejudice.

13. **THIS COURT ORDERS** that, except to the extent expressly contemplated by the Plan, the Plan Supplement or this Sanction Order, all obligations or agreements to which the Payless Canada Entities are a party to immediately prior to the Effective Time, will be and shall remain in full force and effect as at the Implementation Date, unamended except as they may have been

amended by agreement of the parties to such agreement, and no Person (excluding the Term Loan Agent and the Term Loan Lenders in respect of the Term Loan Claims, to whom the balance of paragraph 13 does not apply) who is a party to any such obligation or agreement shall, following the Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, option, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason of: (i) any defaults or events of default arising as a result of the insolvency of the Payless Canada Entities prior to the Implementation Date; (ii) any change of control of the Payless Canada Entities arising from the implementation of the Plan; (iii) the fact that the Payless Canada Entities have sought or obtained relief under the CCAA or that the Plan has been implemented by the Payless Canada Entities; (iv) the effect on the Payless Canada Entities of the completion of any of the transactions contemplated by the Plan or the Plan Supplement; (v) any compromises, arrangements, or reorganization effected pursuant to the Plan or the Plan Supplement; ~~or~~ (vi) [the making of the Receivership Order or the appointment of the Receiver, or \(vii\)](#) any other event(s) which occurred on or prior to the Implementation Date which would have entitled any Person to enforce rights and remedies subject to any express provisions to the contrary in any agreements entered into with the Payless Canada Entities after the Filing Date.

14. **THIS COURT ORDERS** that from and after the Implementation Date, all Persons (excluding the Term Loan Agent and the Term Loan Lenders in respect of the Term Loan Claims, to whom the balance of paragraph 14 does not apply) shall be deemed to have waived any and all defaults of the Payless Canada Entities then existing or previously committed by the Payless Canada Entities, or caused by the Payless Canada Entities, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and any of the Payless Canada Entities arising directly or indirectly from the filing by the Payless Canada Entities under the CCAA and the implementation of the Plan or the Plan Supplement, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement shall be

deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Payless Canada Entities from performing their obligations under the Plan and the Plan Supplement or be a waiver of defaults by the Payless Canada Entities under the Plan and the Plan Supplement and the related documents.

~~15. THIS COURT ORDERS that on the Implementation Date, all equity interests in the Payless Canada Entities shall be extinguished except as set forth in the Plan Supplement.~~

15. ~~16.~~ **THIS COURT ORDERS** that on the Implementation Date, the Payless Canada Entities are authorized and directed to fund the Reserves and Affected Creditor Distribution Account in accordance with the Plan and the Plan Supplement. No amounts in the Reserves or the Affected Creditor Distribution Account shall be or be deemed to be held in trust for any Claimant.

16. ~~17.~~ **THIS COURT ORDERS** that sections 95 to 101 of the BIA and any other federal or provincial law relating to preferences, fraudulent conveyances, transfers at undervalue or oppression, shall not apply in any respect including, without limitation, to any dealings prior to the Filing Date, to the Plan, to the Plan Supplement, to any payments or distributions made in connection with the restructuring and recapitalization of the Payless Canada Entities, whether made before or after the Filing Date, or to any and all transactions contemplated by and to be implemented pursuant to the Plan and the Plan Supplement.

DISTRIBUTIONS

17. ~~18.~~ **THIS COURT ORDERS** that upon delivery of the funds constituting the Affected Creditor Distribution to the Affected Creditor Distribution Account by the Payless Canada Entities such funds shall be distributed to Affected Creditors under the Plan free and clear of all claims, rights, security interest or charges in favour of the Term Loan Lenders and the Term Loan Agent.

18. ~~19.~~ **THIS COURT ORDERS AND DECLARES** that all distributions or payments by the Monitor, on behalf of the Payless Canada Entities, to Affected Creditors with Proven Claims under the Plan are for the account of the Payless Canada Entities and the fulfillment of the Payless Canada Entities' obligations under the Plan.

19. ~~20.~~ **THIS COURT ORDERS** all distributions or other payments to be made under the Plan to General Unsecured Creditors ~~or~~, Landlords or the Receiver are conditional on the receipt of the Comfort Letter from the applicable Governmental Entity and in the event such Comfort Letter is not received by December 31, 2019, the Payless Canada Entities shall notify the Term Loan Agent and the Supporting Term Loan Lenders and, in consultation with the Monitor, may seek further directions of the Court on at least five (5) Business Days' notice to the Service List.

20. ~~21.~~ **THIS COURT ORDERS** that the Payless Canada Entities and the Monitor are authorized to take any and all such actions as may be necessary or appropriate to comply with applicable tax withholding and reporting requirements, if any, relating to the distributions contemplated in the Plan and Plan Supplement. All amounts withheld on account of Taxes, if any, relating to the distributions contemplated in the Plan and Plan Supplement, shall be approved by the Monitor in advance (having regard to, *inter alia*, the claims of the Term Loan Agent and the Term Loan Lenders, and the priority thereof) and treated for all purposes as having been paid to Affected Creditors in respect of which such withholding was made, provided such withheld amounts are remitted to the appropriate Taxing Authority in accordance with legal requirements.

21. ~~22.~~ **THIS COURT ORDERS AND DECLARES** that the Payless Canada Entities or the Monitor on behalf of the Payless Canada Entities, as the case may be, shall be authorized, in connection with the making of any payment or distribution, and in connection with the taking of any step or transaction or performance of any function under or in connection with the Plan and the Plan Supplement, to apply to any Governmental Entity for any consent, authorization, certificate or approval in connection therewith.

22. ~~23.~~ **THIS COURT ORDERS AND DECLARES** that any distributions, disbursements or payments made under the Plan or this Sanction Order (including without limitation distributions made to or for the benefit of the Affected Creditors, Claims against the Reserves, the Term Loan Lenders or any other Person) shall not constitute a "distribution" by any person for the purposes of section 107 of the *Corporations Tax Act* (Ontario), section 22 of the *Retail Sales Tax Act* (Ontario), section 117 of the *Taxation Act*, 2007 (Ontario), section 34 of the *Income Tax Act* (British Columbia), section 104 of the *Social Service Tax Act* (British Columbia), section 49

of the *Alberta Corporate Tax Act*, section 22 of the *Income Tax Act* (Manitoba), section 73 of *The Tax Administration and Miscellaneous Taxes Act* (Manitoba), section 14 of *An Act respecting the Ministère du Revenu* (Quebec), section 85 of *The Income Tax Act, 2000* (Saskatchewan), section 48 of *The Revenue and Financial Services Act* (Saskatchewan), section 56 of the *Income Tax Act* (Nova Scotia), [section 48 of the Income Tax Act \(Prince Edward Island\)](#), [subsection 78\(1\) of the New Brunswick Income Tax Act](#), [section 54 of the Income Tax Act, 2000 \(Newfoundland and Labrador\)](#), section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Tax Statutes**”), and the Monitor, in making any such distributions, disbursements or payments on behalf of the Payless Canada Entities, as applicable, is merely a disbursing agent under the Plan and is not exercising any discretion in making payments under the Plan and no person is “distributing” such funds for the purpose of the Tax Statutes, and the Payless Canada Entities, the Monitor and any other person shall not incur any liability under the Tax Statutes in respect of distributions, disbursements or payments made by it and the Payless Canada Entities, the Monitor and any other person is hereby forever released, remised and discharged from any claims against it under or pursuant to the Tax Statutes or otherwise at law, arising in respect of or as a result of distributions, disbursements or payments made by it in accordance with the Plan and this Sanction Order and any claims of this nature are hereby forever barred.

CHARGES

[23.](#) ~~24.~~ **THIS COURT ORDERS** that the Administration Charge and the Directors’ Charge shall continue in full force and effect and shall, from and after the Effective Time, attach solely against the Administrative Reserve and the Directors’ Claim Reserve, respectively.

RELEASES

[24.](#) ~~25.~~ **THIS COURT ORDERS AND DECLARES** that the compromises, arrangements, releases, discharges and injunctions contemplated in [section 4.7 and](#) Article 8 of the Plan, including those granted by and for the benefit of the Released Parties are integral components thereof and that, effective on the Implementation Date, all such compromises, releases,

discharges and injunctions contemplated in the Plan are effective, sanctioned, approved and given full force and effect.

25. ~~26.~~ **THIS COURT ORDERS** that nothing contained in this Order shall release or discharge:

- (c) the Payless Canada Entities and their respective assets, undertakings and properties from any Unaffected Claim that has not been paid in full under the Plan or the Plan Supplement to the extent of such non-payment;
- (d) a Released Party from its obligations under the Plan or the Plan Supplement;
- (e) subject to paragraph ~~27~~26 below, a Released Party found by a court of competent jurisdiction by final determination on the merits to have committed fraud or wilful misconduct in relation to a Released Claim for which it is responsible at law; or
- (f) subject to paragraph ~~27~~26 below, the Directors from any Claims which have been preserved in accordance with the Claims Procedure Order that cannot be compromised due to the provisions of section 5.1(2) of the CCAA.

26. ~~27.~~ **THIS COURT ORDERS** that, to the extent not barred, released or otherwise affected by paragraph 12 above, and notwithstanding paragraph ~~26~~25 above, any Person having, or claiming any entitlement or compensation relating to, a Director/Officer Claim (with the exception of any Director/Officer Claims judged by the express terms of a judgment rendered on a final determination on the merits to have resulted from criminal, fraudulent or other wilful misconduct on the part of the Director or Officer (an “**Excluded Director/Officer Claim**”)) will be irrevocably limited to recovery in respect of such Director/Officer Claim solely from the proceeds of the applicable insurance policies held by the Payless Canada Entities (the “**Insurance Policies**”), and Persons with any Director/Officer Claims will have no right to, and shall not, directly or indirectly, make any claim or seek any recoveries from the Payless Canada Entities or any Released Party, other than enforcing such Person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable Insurance Policies. Nothing in this Plan Sanction Order prejudices, compromises, releases or otherwise affects any right or defence of any insurer in

respect of an Insurance Policy or any insured in respect of a Director/Officer Claim. Notwithstanding anything to the contrary herein, from and after the Implementation Date, a Person may only commence or continue an action for an Excluded Director/Officer Claim against a Director or Officer if such Person has first obtained leave of the Court on notice to the applicable Directors and Officers, the Monitor and the Payless Canada Entities.

27. ~~28.~~ **THIS COURT ORDERS** that from and after the Implementation Date, any and all Persons shall be and are hereby forever barred, estopped, stayed and enjoined from commencing, taking, applying for or issuing or continuing any and all steps or proceedings, whether directly, derivatively or otherwise, and including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Claims and matters which are released pursuant to Article 8 of the Plan or discharged, compromised or terminated pursuant to the Plan, except as against the applicable insurer(s) to the extent that Persons with Director/Officer Claims seek to enforce rights to be paid from the proceeds of the Insurance Policies, and provided that any claimant in respect of a Director/Officer Claim that was duly filed with the Monitor by the Claims Bar Date shall be permitted to file a statement of claim in respect thereof to the extent necessary solely for the purpose of preserving such claimant's ability to pursue such Director/Officer Claim against an insurer in respect of an Insurance Policy. Notwithstanding anything to the contrary contained herein, from and after the Implementation Date, a Person may only commence or continue an action against a Released Party in respect of a matter that is not released pursuant to Article 8.1(a)-(d) of the Plan if such Person has first obtained leave of the Court on notice to the applicable Released Party, the Payless Canada Entities, the Monitor and the insurer(s) under any applicable Insurance Policy.

28. ~~29.~~ **THIS COURT ORDERS** that, on the Implementation Date, each Affected Creditor, each holder of a Director/Officer Claim and any Person having a Released Claim shall be deemed to have consented and agreed to all of the provisions of the Plan and the Plan Supplement, in their entirety, and, in particular, each Affected Creditor, each holder of a Director/Officer Claim and any Person having a Released Claim shall be deemed:

- (a) to have executed and delivered to the Monitor, the Payless Canada Entities and the other Released Parties all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan and the Plan Supplement in their entirety; and
- (b) to have agreed that if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor, holder of a Director/Officer Claim, and the Payless Canada Entities as of the Implementation Date and the provisions of the Plan and the Plan Supplement, the provisions of the Plan and the Plan Supplement take precedence and priority, and the provisions of such agreement or other arrangements shall be deemed to be amended accordingly.

THE MONITOR

29. ~~30.~~ **THIS COURT ORDERS** that in addition to its prescribed rights and obligations under the CCAA and the CCAA Orders, the Monitor is granted the powers, duties and protections contemplated by and required under the Plan and Plan Supplement and that the Monitor be and is hereby authorized, entitled and empowered to perform its duties and fulfil its obligations under the Plan and the Plan Supplement to facilitate the implementation thereof and to apply to this Court for any orders necessary or advisable to carry out its powers and obligations under any other CCAA Order.

30. ~~31.~~ **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order or the provisions of any other CCAA Order, including this Sanction Order, the Payless Canada Entities shall, subject to the terms of the Receivership Order, remain in possession and control of the Property (as defined in the Initial Order) and the Monitor shall not take possession or be deemed to be in possession and/or control of the Property.

31. ~~32.~~ **THIS COURT ORDERS** that, subject to further order of the Court, the Payless Canada Entities shall be and are hereby directed to maintain the books and records of the Payless Canada Entities for purposes of assisting the Monitor in the completion of the resolution of the General Unsecured Claims and Landlord Claims.

32. ~~33.~~ **THIS COURT ORDERS AND DECLARES** that in no circumstance will the Monitor have any liability for any of the Payless Canada Entities' tax liabilities regardless of how or when such liabilities may have arisen, nor will the Monitor or the Directors have any liability for any tax liabilities arising as a result of any distributions to be made by the Monitor or the Payless Canada Entities under the Plan or Plan Supplement.

33. ~~34.~~ **THIS COURT ORDERS** that, effective upon the delivery of the Monitor's Certificate to the Payless Canada Entities in accordance with paragraph 8 hereof, the Payless Canada Entities shall not be subject to the restrictions, obligations, requirements or provisions of paragraphs ~~11, 12, 12A, 12B, 13, 14, 15, 16, 24, [28], 37(a) and 37(d)~~ and 12B of the Initial Order.

~~DISTRIBUTIONS TO THE TERM LOAN LENDERS~~

STAY OF PROCEEDINGS

34. ~~35.~~ **THIS COURT ORDERS** that ~~[NTD: to conform with Plan Supplement]~~ the Stay Period (as defined in paragraph 18 of the Initial Order) be and is hereby extended until February 28, 2020.

35. **THIS COURT ORDERS** that to the extent necessary, the Stay of Proceedings is hereby lifted for the limited purpose of permitting the forgiveness or cancellation in whole or in part of the Intercompany Claims as set out in U.S. Plan.

APPROVAL OF MONITOR'S ~~SIXTH REPORT AND THE~~ SUPPLEMENTAL REPORT, SIXTH REPORT AND SEVENTH REPORT

36. **THIS COURT ORDERS** that the Supplemental Report, the Sixth Report and ~~Supplemental~~ the Seventh Report and the activities of the Monitor, as applicable, referred to therein, be and are hereby approved; *provided, however,* that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

GENERAL

37. **THIS COURT ORDERS** that the Payless Canada Entities, the Monitor and any other interested parties are hereby granted leave to apply to this Court for such further advice, directions or assistance as may be necessary to give effect to the terms of the Plan and any other matters that pertain to the completion of the administration of the CCAA Proceedings.

38. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body having jurisdiction in Canada, the United States, or in any other foreign jurisdiction, to recognize and give effect to the Plan and this Sanction Order, to confirm the Plan and this Sanction Order as binding and effective in any appropriate foreign jurisdiction, and to assist the Payless Canada Entities, the Monitor and their respective agents in carrying out the terms of the Plan and this Sanction Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Payless Canada Entities, and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Sanction Order, to grant representative status to the Payless Canada Entities in any foreign proceeding, or to assist the Payless Canada Entities and the Monitor and their respective agents in carrying out the terms of this Sanction Order.

SCHEDULE "A"
FIRST AMENDED AND RESTATED PLAN OF COMPROMISE AND ARRANGEMENT

SCHEDULE "B"
FORM OF MONITOR'S PLAN IMPLEMENTATION DATE CERTIFICATE

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "**Applicants**")

**MONITOR'S CERTIFICATE
(Plan Implementation)**

All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Order of the Honourable [●Mr. Justice ●McEwen](#) made in these proceedings on October [29], 2019 (the "**Sanction Order**").

Pursuant to paragraph 8 of the Sanction Order, FTI Consulting Canada Inc., solely in its capacity as Court-appointed monitor (the "**Monitor**") of the Applicants and Payless ShoeSource Canada LP (collectively, the "**Payless Canada Entities**"), delivers to the Payless Canada Entities, the Term Loan Agent and the Supporting Term Loan Lender this certificate and hereby certifies that it has been informed in writing by the Payless Canada Entities that all of the conditions precedent set out in the Plan have been satisfied or waived, and that the Effective Time of the Plan is _____ [a.m/p.m.] on _____, being the Implementation Date. The Implementation Date has occurred and the Plan, [the Plan Supplement](#) and the provisions of the Sanction Order which come into effect on the Implementation Date are effective in accordance with their respective terms. This Certificate will be filed with the Court and posted on the website maintained by the Monitor.

DATED at the City of Toronto, in the Province of Ontario, this ● day of ●, 2019 at [● a.m./p.m.]

FTI CONSULTING CANADA INC., solely in its capacity as Court-appointed Monitor of the Payless Canada Entities and not in its personal or corporate capacity

By: _____
Name:
Title:

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS
SHOESOURCE CANADA GP INC.**

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDING COMMENCED AT TORONTO

PLAN SANCTION ORDER

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ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP*

SCHEDULE "C"
FORM OF RECEIVERSHIP ORDER

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR

)

TUESDAY, THE 29TH

JUSTICE McEWEN

)

DAY OF OCTOBER, 2019

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

(the "Applicants")

RECEIVERSHIP ORDER

THIS MOTION made by FTI Consulting Canada Inc. ("FTI"), in its capacity as court-appointed monitor (the "Monitor") of the Applicants and Payless ShoeSource Canada LP (the "Payless Canada Entities") for an Order (the "Receivership Order") pursuant to section 243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA") appointing FTI as receiver (in such capacity, the "Receiver") without security, of all Employee Distributions (as defined in the First Amended and Restated Plan of Compromise and Arrangement of the Payless Canada Entities dated October ●, 2019, as may be further amended from time to time (the "CCAA Plan")), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Monitor, the Affidavit of Stephen Marotta sworn October [23], 2019 including the exhibits thereto, the [seventh] report of the Monitor dated October ●, 2019, and on hearing the submissions of counsel for the Payless Canada

Entities, the Monitor, FTI (as the proposed Receiver), the Term Loan Agent and the Supporting Term Loan Lenders, and no one else appearing although duly served as appears from the affidavit of service of Taschina Ashmeade sworn October 1, 2019, and on reading the consent of FTI to act as the Receiver.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the CCAA Plan.

LIFTING OF THE STAY

3. **THIS COURT ORDERS** that the stay of proceedings granted by this Court under the Initial Order dated February 19, 2019, (the "**Initial Order**") is hereby lifted with respect to the Payless Canada Entities and the Receivership Property (as defined below) solely to allow: (i) the appointment of the Receiver over the Receivership Property on the Receivership Effective Date (as defined below); and (ii) the Receiver to act in respect of the Receivership Property, each in accordance with the provisions of this Receivership Order.

APPOINTMENT

4. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and effective upon service on the Service List of the certificate attached as **Schedule "A"** hereto (the "**Receivership Effective Date**") confirming that the Affected Creditor Distribution Date has occurred, FTI will hereby be appointed Receiver, without security, of all Employee Distributions and Cash in the amount of \$100.00 to be transferred by Payless ShoeSource Canada LP to the Receiver (the "**Receivership Property**"), and no other property of the Payless Canada Entities.

5. **THIS COURT DECLARES** that the Receiver is a receiver within the meaning of section 243(1) of the BIA.

RECEIVER'S POWERS

6. THIS COURT ORDERS that, from and after the Receivership Effective Date, the Receiver will be empowered and authorized, but not obligated, to act at once in respect of the Receivership Property and the Receiver will be expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) subject to paragraphs 11, 13 and 14 of this Receivership Order, to exercise control over the Receivership Property;
- (b) to perform its statutory obligations under the *Wage Earner Protection Program Act (Canada)* (the "WEPPA");
- (c) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (d) to engage counsel to assist with the exercise of the Receiver's powers conferred by this Receivership Order.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusions of all other Persons (as defined below), including the Payless Canada Entities and without interference from any other Person.

7. THIS COURT ORDERS that the Receiver be and is hereby relieved from compliance with the provision of sections 245(1), 245(2) and 246 of the BIA, provided that the Receiver shall provide notice of its appointment in the prescribed form and manner to the Superintendent of Bankruptcy, accompanied by the prescribed fee.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. THIS COURT ORDERS that (i) the Payless Canada Entities, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and members, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Receivership Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith grant access to the Receivership Property to the Receiver upon the Receivership Effective Date.

9. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the Receivership Property and the current (if any) and former employees of the Payless Canada Entities for the purposes of complying with the Receiver's statutory obligations under the WEPPA, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 9 or in paragraph 10 of this Receivership Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to applicable laws prohibiting such disclosure.

10. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER OR THE RECEIVERSHIP PROPERTY

11. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver or the Receivership Property except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Receiver or the Receivership Property are hereby stayed and suspended pending further Order of this Court.

EMPLOYEES

12. THIS COURT ORDERS that employees of the Payless Canada Entities, if any, shall remain the employees of the Payless Canada Entities until such time as the Payless Canada Entities may terminate the employment of such employees and the Receiver shall not be liable for any employee-related liabilities or obligations, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA.

LIMITATION ON ENVIRONMENTAL LIABILITIES

13. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Receivership Property or any of the Payless Canada Entities' other assets, property or undertaking, including (without limitation) property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial, or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation").

POSSESSION OF RECEIVERSHIP PROPERTY

14. THIS COURT ORDERS that the Receiver shall take no part whatsoever in the management or supervision of the management of the Business (as defined in the Initial Order) and the Receiver shall not, as a result of this Receivership Order or anything done in pursuance of the Receiver's duties and powers under this Receivership Order, be deemed to be in possession of or be deemed to have taken any steps to dispose of any of the Receivership Property, or of any other assets, property or undertaking of the Payless Canada Entities, including (without limitation) within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

15. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its delivery of the Receivership Certificate, its appointment or the carrying out the provisions of this Receivership Order, including any liability or obligation in respect of taxes, withholdings, interest, penalties, or other like claims, save and except for any gross negligence or wilful misconduct on its part, and it shall have no obligations under sections 81.4(5) or 81.6(3) of the BIA. Nothing in this Receivership Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

COSTS OF ADMINISTRATION

16. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, in an amount up to but not exceeding the amount of the Receivership Property, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Receivership Property, as security for such fees and disbursements, both before and after the making of this Receivership Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Receivership Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

17. THIS COURT ORDERS that, if requested by the Court or any interested person, the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

18. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the Receivership Property, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

TERMINATION OF THE RECEIVERSHIP

19. THIS COURT ORDERS that unless otherwise ordered by the Court following the completion of the Receivers' duties under this Receivership Order, any Receivership Property remaining after payment of all fees and expenses of the Receiver and its counsel shall be remitted to Service Canada as subrogee of Claims paid in respect of eligible wages (as defined in WEPPA), as contemplated by WEPPA.

SERVICE AND NOTICE

20. THIS COURT ORDERS that, subject to further Order of the Court, service and notice with respect to this Receivership Order and the appointment of the Receiver shall be in accordance with paragraphs 54, 55, 56, and 57 of the Initial Order.

INITIAL ORDER, CCAA PLAN AND SANCTION ORDER

21. THIS COURT ORDERS that, except as expressly stated herein with respect to the Receivership Property, nothing herein amends the terms of the Initial Order, including the powers, authorizations, obligations and protections for the Monitor, the Payless Canada Entities and the Payless Canada Entities' directors and officers contained in the Initial Order.

22. THIS COURT ORDERS that, nothing herein amends the terms of the CCAA Plan or the Sanction Order, including the compromises, discharges, releases and injunctions provided for therein.

WEPPA

23. THIS COURT ORDERS that (i) notwithstanding subsection 21(1)(d) of WEPPA and subsection 16(1)(b) of the WEPPA Regulations, each individual (as such term is used in WEPPA) will not be required to, and shall not, deliver a proof of claim for wages owing, and the Receiver will instead accept the individual's CCAA claim for purposes of administration of WEPPA in this proceeding, and (ii) notwithstanding subsection 15(1)(d) of the WEPPA Regulations, the Receiver shall advise the Minister (as defined in WEPPA), and the Minister shall accept, that the requirement of an individual to deliver a proof of claim for wages owing was met given the acceptance of claims referred to immediately above.

24. THIS COURT ORDERS that, for the purposes of WEPPA and these receivership proceedings, (i) Payless ShoeSource Canada LP is subject to the CCAA Proceedings, (ii) the wage eligibility period for the purpose of establishing eligible wages under WEPPA in

accordance with subsection 2(1)(a)(ii) of WEPPA has occurred, and (iii) the wage eligibility period began six months prior to the date of commencement of the CCAA Proceedings.

GENERAL

25. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

26. THIS COURT ORDERS that nothing in this Receivership Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Payless Canada Entities (or any of them).

27. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Receivership Order and to assist the Receiver and its agents in carrying out the terms of this Receivership Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Receivership Order or to assist the Receiver and its agents in carrying out the terms of this Receivership Order.

28. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Receivership Order and for assistance in carrying out the terms of this Receivership Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Receivership Order on not less than seven (7) days' notice to the Receiver and the Payless Canada Entities and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER CERTIFICATE

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

RECEIVERSHIP CERTIFICATE

The undersigned confirm that this is the "Receivership Certificate" referred to in the
Receivership Order of the Ontario Superior Court of Justice (Commercial List) made on
October 29, 2019, and that in accordance with paragraph 4 of the Receivership Order, the
Affected Creditor Distribution Date as defined in the First Amended and Restated Plan of
Compromise and Arrangement of the Payless Canada Entities dated October 9, 2019, as may
be further amended from time to time, has occurred and that the Receivership Effective Date
shall be effective upon service of this certificate on the Service List.

PAYLESS SHOESOURCE CANADA
INC., PAYLESS SHOESOURCE
CANADA GP INC. AND PAYLESS
SHOESOURCE CANADA LP

FTI CONSULTING CANADA INC., SOLELY IN
ITS CAPACITY AS PROPOSED RECEIVER,
AND NOT IN ITS PERSONAL OR
CORPORATE CAPACITY

Per: _____
Name:
Title

Per: _____
Name:
Title:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

RECEIVERSHIP ORDER

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**FIRST AMENDED AND RESTATED PLAN OF COMPROMISE
AND ARRANGEMENT**

Cassels Brock & Blackwell LLP

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*Lawyers for Payless ShoeSource Canada Inc., Payless
ShoeSource Canada GP Inc. and Payless ShoeSource Canada LP*

This is **Exhibit "C"**
to the affidavit of **Taschira Ashmeade**
sworn before me this 16th day of
October 2019



Behnoosh Nasr

.....
A Commissioner for Taking Affidavits

LSO#P14845

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PAYLESS
SHOESOURCE CANADA INC. AND PAYLESS SHOESOURCE CANADA GP INC.**

(the "**Applicants**")

PLAN SUPPLEMENT

October 16, 2019

Plan Supplement

A. Payless ShoeSource Canada Inc. and Payless ShoeSource Canada GP Inc., (collectively the “**Applicants**”) are debtor companies (as such term is defined in the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”)).

B. On February 19, 2019, the Honourable Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Initial Order in respect of the Applicants (as such Order may be amended, restated or varied from time to time, the “**Initial Order**”) pursuant to the CCAA. The protections of the Initial Order extend to Payless ShoeSource Canada LP (together with the Applicants, the “**Payless Canada Entities**”).

C. On September 19, 2019, the Court granted a Meetings Order (as such Order may be amended, restated or varied from time to time, the “**Meetings Order**”) pursuant to which, among other things, the Payless Canada Entities were authorized to file a Plan¹ and to convene meetings of Affected Creditors to consider and vote on the Plan.

D. The Meetings Order requires the Payless Canada Entities to serve a Plan Supplement, in form and substance acceptable to the Payless Canada Entities, the Monitor, and the Supporting Term Loan Lenders no later than five Business Days before the Creditors’ Meetings or such shorter period as may be agreed by the Monitor and the Supporting Term Loan Lenders.

NOW THEREFORE consistent with the Meetings Order and the Plan, this Plan Supplement includes the following schedules:

Schedule A	Transaction Steps (including treatment of Intercompany Claims)
Schedule B	Reserves

¹ Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Plan.

SCHEDULE "A"

TRANSACTION STEPS

Section 7.2 of the Plan provides that the Implementation Date Transactions will be set out in the Plan Supplement.

Section 4.3 of the Plan provides that on the Implementation Date, and in accordance with the steps and sequence as set forth in the Plan Supplement, all Intercompany Claims shall be preserved or extinguished at the election of the Payless Canada Entities, with the consent of the Supporting Term Loan Lenders.

It is a condition to implementation of the Plan that the U.S. Plan will have become effective. Pursuant to the U.S. Plan, (i) for no consideration, Payless Finance Inc. ("**Finance**") will cancel the intercompany note in the amount of approximately US\$114 million (including principal and interest) owed by Finance to Payless ShoeSource Canada Inc. ("**PSSC**") and (ii) PSS Canada, Inc. ("**PCI**") will repay Payless ShoeSource Canada LP ("**PSCLP**") the Post-Filing Intercompany Loans (including accumulated interest thereon) in full in the amount of approximately US\$15.6 million.

Following the effective date of the U.S. Plan, certain holders of the Tranche A-2 Term Loan Secured Claims (as defined in the U.S. Plan) will own 100% of the equity in reorganized Payless Holdings LLC.

Commencing at the Effective Time, the following events or transactions will occur, or be deemed to have occurred and be taken and effected in five minute increments (unless otherwise indicated) and in the order set out below (or in such other manner or order or at such other time or times as the Payless Canada Entities may determine in consultation with the Monitor), without any further act or formality required on the part of any Person, except as may be expressly provided herein:

- (a) Payments by the Payless Canada Entities: The Payless Canada Entities shall fund the Reserves and the Affected Creditor Distribution Account in accordance with the Plan.
- (b) Priority Payments by the Payless Canada Entities: The Monitor, on behalf of the Payless Canada Entities shall pay any Priority Claims from the Priority Claim Reserve Account as required by the CCAA and in accordance with the Plan.
- (c) Continuation of Administration Charge and Director's Charge: The Administration Charge and the Directors' Charge shall continue and shall attach solely against the Administrative Reserve and the Directors' Claim Reserve, respectively, from and after the Implementation Date pursuant to and in accordance with the Sanction Order.
- (d) Landlord Claims: Landlords shall be entitled to the treatment set out in section 4.2 of the Plan.
- (e) General Unsecured Claims: General Unsecured Creditors shall be entitled to the treatment set out in sections 4.1, 4.7 and 6.2(b) of the Plan.

- (f) Compromise, Satisfaction and Release: The compromises with the General Unsecured Creditors and Landlords and the release of the Released Parties referred to in the Plan shall become effective in accordance with section 4.7 and Article 8 of the Plan and as otherwise set forth in the Sanction Order.
- (g) Intercompany Claims:
 - (i) PSCLP will pay the amount received from PCI as repayment of the Post-Filing Intercompany Loans (including accumulated interest thereon) to Payless ShoeSource Distribution, Inc. ("**PSSD**") in partial satisfaction of the principal amounts owing from PSCLP to PSSD.
 - (ii) PSCLP will repay to PSSD in partial satisfaction of the principal amounts owing from PSCLP to PSSD, the available cash remaining after provision for the Reserves (which remaining cash is estimated to be approximately \$2.1 million).
 - (iii) PSSC will cancel the existing note (including accumulated interest thereon) payable to Collective Brands II Cooperatief UA.

SCHEDULE "B"
RESERVES

The Reserves provided for in the Plan shall be in the amounts set forth below:

Administrative Reserve	\$1,065,150 (less amounts paid for October 2019)
Directors' Claim Reserve	\$2,000,000
Post-Filing Claim Reserve	\$908,402
Priority Claim Reserve	\$0

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PLAN SUPPLEMENT

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